

1 HB373
2 146780-2
3 By Representatives Moore (B), Boothe, Beckman, Warren,
4 McMillan, Vance, Buskey, Davis, Lee, Love, Chesteen, Grimsley,
5 Colston, Melton, Drake, Henry, Gaston and Collins
6 RFD: Constitution, Campaigns and Elections
7 First Read: 28-FEB-13

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8 SYNOPSIS: Under existing law, certain qualified
9 electors are permitted to vote by absentee ballot.

10 This bill would authorize the Secretary of
11 State, by emergency rule, to provide for absentee
12 voting by those qualified electors who have
13 responded to an emergency situation away from their
14 polling places.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT
19

20 To amend Sections 17-11-3 and 17-11-7, Code of
21 Alabama 1975, relating to absentee voting; to authorize the
22 Secretary of State, by emergency rule, to provide for absentee
23 voting by those qualified electors who have responded to an
24 emergency situation away from their polling places.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Sections 17-11-3 and 17-11-7 of the Code
27 of Alabama 1975, are amended to read as follows:

1 "§17-11-3.

2 "(a) Any qualified elector of this state may apply
3 for and vote an absentee ballot by mail or by hand delivery,
4 as provided in Sections 17-11-5 and 17-11-9, in any primary,
5 general, special, or municipal election, if he or she makes
6 application in writing therefor not less than five days prior
7 to the election in which he or she desires to vote and meets
8 one of the following requirements:

9 "(1) The person will be out of the county or the
10 state, or the municipality for municipal elections, on
11 election day.

12 "(2) The person has any physical illness or
13 infirmity which prevents his or her attendance at the polls,
14 whether he or she is within or without the county on the day
15 of the election.

16 "(3) The person works on a shift which has at least
17 10 hours which coincide with the hours the polls are open at
18 his or her regular polling place.

19 "(4) The person is enrolled as a student at an
20 educational institution located outside the county of his or
21 her personal residence attendance at which prevents his or her
22 attendance at the polls.

23 "(5) The person is a member of, or spouse or
24 dependent of a member of, the Armed Forces of the United
25 States or is similarly qualified to vote absentee pursuant to
26 the federal Uniformed and Overseas Citizens Absentee Voting
27 Act, 42 U.S.C. 1973ff.

1 "(6) The person has been appointed as an election
2 officer or named as a poll watcher at a polling place other
3 than his or her regular polling place.

4 "(b) An applicant for an absentee ballot who is a
5 member of the Armed Forces of the United States, including the
6 Alabama National Guard, the United States Naval Reserves, the
7 United States Air Force Reserves, and the United States Army
8 Reserve on active duty or active duty for training or an
9 applicant who is the spouse of any member of the armed forces
10 or any other applicant qualified to vote absentee pursuant to
11 the federal Uniformed and Overseas Citizens Absentee Voting
12 Act, 42 U.S.C. 1973ff, may make application for an absentee
13 ballot by filling out the federal postcard application form,
14 authorized and provided for under the provisions of "The
15 Federal Voting Assistance Act of 1955," Public Law 296,
16 Chapter 656, H.R. 4048, approved August 9, 1955, 84th Congress
17 1st Session.

18 "(c) Any registered elector who requires emergency
19 treatment of a licensed physician within five days of an
20 election may apply for an emergency absentee ballot for the
21 election and may vote by returning the absentee ballot no
22 later than noon on the day the election is held. The attendant
23 physician shall describe and certify the circumstances as
24 constituting an emergency on a special form designed by the
25 Secretary of State and provided by his or her office to local
26 absentee election managers. The special form shall be attached
27 to the application.

1 "(d) Any registered elector whose name appears on
2 the poll list of qualified voters may vote by an emergency
3 absentee ballot if he or she is required by his or her
4 employer under unforeseen circumstances to be out of the
5 county on an emergency business trip on election day. Under
6 such circumstances, the applicant shall apply for an emergency
7 absentee ballot at the office of the absentee election manager
8 no later than the close of the business day one day prior to
9 the election. The applicant shall complete and file an
10 application form designed by the Secretary of State for
11 emergency absentee voters. The form shall contain an affidavit
12 which the applicant shall sign or swear acknowledging that he
13 or she was not aware of the out-of-county business requirement
14 prior to five days before the election. An applicant who meets
15 the requirements of this subsection may vote by an emergency
16 absentee ballot. After voting the ballot, the voter shall hand
17 the ballot to the absentee election manager.

18 "(e) If the occurrence of a state of emergency as
19 declared in this or any other state, or by the federal
20 government, renders substantial compliance with this article
21 impossible or unreasonable for a group of qualified voters who
22 respond to the emergency, the Secretary of State, pursuant to
23 Section 41-22-5 of the Alabama Administrative Procedure Act,
24 may promulgate an emergency rule to allow those qualified
25 voters to vote by absentee ballot.

26 "(f) Notwithstanding any other provision of
27 otherwise applicable law, in the event more than one absentee

1 ballot is cast in the name of the single voter, whether any
2 such multiple ballot is cast by mail or otherwise, none of the
3 affidavit envelopes containing the multiple ballots shall be
4 opened, and none of the multiple ballots shall be counted,
5 except in the event of an election contest, upon the order of
6 the election contest tribunal. Upon the conclusion of an
7 election contest or, in the event no such contest is filed,
8 upon the expiration of time for filing such a contest, the
9 multiple ballots shall be provided to the district attorney,
10 with photocopies provided to the state Attorney General, for
11 such investigation, prosecution, or other action as may be
12 appropriate under applicable law.

13 "§17-11-7.

14 "(a) Each absentee ballot shall be accompanied by an
15 envelope upon which shall be printed an affidavit.

16 "(b) With respect to an absentee ballot cast
17 pursuant to Section 17-11-3, the affidavit shall read as
18 follows:

19 ""State of Alabama

20 "County of _____

21 "I, the undersigned, do swear (or affirm) that:

22 "(1) I am a resident of _____ County in the
23 State of Alabama.

24 (2) My place of residence in Alabama is: _____

25 (street)

1 _____, Alabama _____
2 (city or town) (zip code)

3 "(3) My voting precinct (or place where I vote)
4 is: _____
5 _____
6 _____

7 "(4) My date of birth is: _____
8 month day year

9
10 "(5) I am entitled to vote an absentee ballot
11 because:

12 "Check only one:
13 "___ I will be out of the county or the state on
14 election day.

15 "___ I am physically incapacitated and will not be
16 able to vote in person on election day.

17 "___ I work a required workplace shift which has at
18 least 10 hours which coincide with the polling hours at my
19 regular polling place.

20 "___ I am a student at an educational institution
21 located outside the county of my permanent residence and am

1 therefore unable to vote at my usual polling place on election
2 day.

3 "___ I am a member of or a spouse or dependent of a
4 member of the Armed Forces of the United States or am
5 otherwise entitled to vote pursuant to the federal Uniformed
6 and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff.

7 "___ I have been appointed as an election officer at
8 a polling place which is not my regular polling place.

9 "___ I will be out of the county on election day
10 responding to a state of emergency as declared by this state
11 or any other state, or by the federal government.

12 "I further swear (or affirm) that I have not voted
13 nor will I vote in person in the election to which this ballot
14 pertains.

15 "I have marked the enclosed absentee ballot
16 voluntarily and I have read or had read to me and understand
17 the instructions accompanying this ballot and I have carefully
18 complied with such instructions.

19 "Moreover, I further swear (or affirm) that all of
20 the information given above is true and correct to the best of
21 my knowledge and that I understand that by knowingly giving
22 false information so as to vote illegally by absentee ballot
23 that I shall be guilty of a misdemeanor which is punishable by
24 a fine not to exceed one thousand dollars (\$1,000) or confine-
25 ment in the county jail for not more than six months, or both.

1 _____
2 (Signature or mark of voter.)

3 _____
4 (Printed name of voter.)

5 "IF YOUR AFFIDAVIT IS NOT SIGNED (OR MARKED), AND IF
6 YOUR AFFIDAVIT IS NOT WITNESSED BY TWO WITNESSES 18 YEARS OF
7 AGE OR OLDER OR A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO
8 ACKNOWLEDGE OATHS, PRIOR TO BEING DELIVERED OR MAILED TO THE
9 ABSENTEE ELECTION MANAGER, YOUR BALLOT WILL NOT BE COUNTED.

10 "Sworn to and subscribed before me this _____ day of
11 _____, 2__.

12 "I certify that the affiant is known (or made known)
13 to me to be the identical party he or she claims to be.

14 _____ (Signature of official)

15 (Title of official)

16 _____

17 (Address of official)

18 OR

19 1st Witness _____

20 Signature
21 _____

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Print name

Address

City Zip Code

2nd Witness _____

Signature

Print name

Address

City Zip Code"

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.