

1 SB106
2 197799-1
3 By Senator Barfoot
4 RFD: Veterans and Military Affairs
5 First Read: 02-FEB-21
6 PFD: 01/28/2021

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8 SYNOPSIS: Under existing law, electors may only vote
9 on election day, with the exception of absentee
10 voting, and a registered voter may only vote by
11 absentee ballot if he or she meets one of the
12 criteria prescribed by law for voting absentee.

13 Also under existing law, a person may not
14 register to vote during the 14-day period before an
15 election.

16 This bill would allow a registered voter to
17 vote by absentee ballot without an excuse.

18 This bill would allow a person to register
19 to vote up to and on the day of the election in
20 which he or she votes.

21 This bill would establish an early voting
22 period during which qualified electors may vote,
23 without excuse, at a designated early voting
24 location before election day.

25 This bill would provide for minimum days and
26 hours of operation for each early voting center.

1 This bill would authorize judges of probate
2 to manage early voting and authorize appointing
3 boards to appoint election officials to work at
4 early voting locations.

5 This bill would provide for automatic voter
6 registration in conjunction with obtaining,
7 updating, or renewing a driver's license or
8 nondriver identification card.

9 This bill would also authorize the Alabama
10 State Law Enforcement Agency and the Secretary of
11 State to adopt rules.

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT
16

17 Relating to voting; to amend Sections 17-3-50,
18 17-11-3, and 17-11-7, Code of Alabama 1975; to authorize
19 absentee ballot voting without an excuse; to allow a person to
20 register to vote up to and on the day of an election; to
21 establish an early voting period for voting and provide for
22 hours of operation and general management of the early voting
23 period; to provide for automatic voter registration in
24 conjunction with the issuance, updating, or renewal of
25 driver's licenses or nondriver identification cards and to
26 authorize rulemaking by the Secretary of State and the Alabama
27 State Law Enforcement Agency.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 17-3-50, 17-11-3, and 17-11-7,
3 Code of Alabama 1975, are amended to read as follows:

4 "§17-3-50.

5 ~~"(a) The boards of registrars in the several~~
6 ~~counties of the state shall not register any person as a~~
7 ~~qualified elector within 14 days prior to any election;~~
8 ~~provided, that the~~ In order to vote in any election for which
9 registration is required, a person must be registered to vote
10 in the jurisdiction of his or her residence before the close
11 of the polling place on the day of the election. Any
12 individual who chooses to register to vote on the day of an
13 election shall be allowed to register, if eligible, at his or
14 her polling place. The boards of registrars shall maintain
15 open offices during business days in ~~such~~ the 14-day period
16 before an election and on election day during the hours of
17 voting. Any person registering to vote after the date of an
18 election shall be eligible to vote in subsequent elections.

19 (b) The Secretary of State shall adopt rules to
20 implement this section.

21 "§17-11-3.

22 "(a) Any qualified elector of this state may apply
23 for and vote an absentee ballot by mail or by hand delivery,
24 as provided in Sections 17-11-5 and 17-11-9, in any primary,
25 general, special, or municipal election, if he or she makes
26 application in writing therefor not less than five days prior

1 to the election in which he or she desires to vote, and meets
2 one of the following requirements:

3 ~~"(1) The person will be out of the county or the~~
4 ~~state, or the municipality for municipal elections, on~~
5 ~~election day.~~

6 ~~"(2) The person has any physical illness or~~
7 ~~infirmity which prevents his or her attendance at the polls,~~
8 ~~whether he or she is within or without the county on the day~~
9 ~~of the election.~~

10 ~~"(3) The person works on a shift which has at least~~
11 ~~10 hours which coincide with the hours the polls are open at~~
12 ~~his or her regular polling place.~~

13 ~~"(4) The person is enrolled as a student at an~~
14 ~~educational institution located outside the county of his or~~
15 ~~her personal residence attendance at which prevents his or her~~
16 ~~attendance at the polls.~~

17 ~~"(5) The person is a member of, or spouse or~~
18 ~~dependent of a member of, the Armed Forces of the United~~
19 ~~States or is similarly qualified to vote absentee pursuant to~~
20 ~~the federal Uniformed and Overseas Citizens Absentee Voting~~
21 ~~Act, 42 U.S.C. 1973ff.~~

22 ~~"(6) The person has been appointed as an election~~
23 ~~officer or named as a poll watcher at a polling place other~~
24 ~~than his or her regular polling place.~~

25 "(b) An applicant for an absentee ballot who is a
26 member of the Armed Forces of the United States, including the
27 Alabama National Guard, the United States Naval Reserves, the

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

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

22 "(d) Any registered elector whose name appears on
23 the poll list of qualified voters may vote by an emergency
24 absentee ballot if he or she is required by his or her
25 employer under unforeseen circumstances to be out of the
26 county on an emergency business trip on election day. Under
27 such circumstances, the applicant shall apply for an emergency

1 absentee ballot at the office of the absentee election manager
2 no later than the close of the business day one day prior to
3 the election. The applicant shall complete and file an
4 application form designed by the Secretary of State for
5 emergency absentee voters. The form shall contain an affidavit
6 which the applicant shall sign or swear acknowledging that he
7 or she was not aware of the out-of-county business requirement
8 prior to five days before the election. An applicant who meets
9 the requirements of this subsection may vote by an emergency
10 absentee ballot. After voting the ballot, the voter shall hand
11 the ballot to the absentee election manager.

12 "(e) If the occurrence of a state of emergency as
13 declared in this or any other state, or by the federal
14 government, renders substantial compliance with this article
15 impossible or unreasonable for a group of qualified voters who
16 respond to the emergency, the Secretary of State, pursuant to
17 Section 41-22-5, may promulgate an emergency rule to allow
18 those qualified voters to vote by absentee ballot.

19 Notwithstanding any other laws to the contrary, all expenses
20 and costs incurred by the state or any county in carrying out
21 the responsibilities and duties included in an emergency rule
22 promulgated pursuant to this subsection shall be paid by the
23 State of Alabama from any funds made available for election
24 expenses under state and federal law.

25 "(f) Notwithstanding any other provision of
26 otherwise applicable law, in the event more than one absentee
27 ballot is cast in the name of the single voter, whether any

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

12 "§17-11-7.

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

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

17 "State of Alabama

18 County of _____

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

20 (1) I am a resident of _____ County in the
21 State of Alabama.

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

24 (street)

25 _____, Alabama _____

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(city or town)

(zip code)

(3) My voting precinct (or place where I vote)

is: _____

(4) My date of birth is: _____

month day year

~~(5) I am entitled to vote an absentee ballot~~

~~because:~~

~~"Check only one:~~

~~___ I will be out of the county or the state on
election day.~~

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

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

~~___ I am a student at an educational institution
located outside the county of my permanent residence and am
therefore unable to vote at my usual polling place on election
day.~~

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

5 ~~_____ I have been appointed as an election officer at~~
6 ~~a polling place which is not my regular polling place.~~

7 ~~_____ I will be out of the county on election day~~
8 ~~responding to a state of emergency as declared by this state~~
9 ~~or any other state, or by the federal government.~~

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

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

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

24 _____
25 (Signature or mark of voter.)

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(Printed name of voter.)

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

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

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

_____ (Signature of official)

(Title of official)

(Address of official)

OR

1st Witness_____

Signature

Print name

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Address

City Zip Code

2nd Witness _____

Signature

Print name

Address

City Zip Code"

Section 2. (a) Notwithstanding subsection (b) of Section 17-4-60, Code of Alabama 1975, the Alabama State Law Enforcement Agency, judges of probate, license commissioners, and other license issuing officials shall obtain, as an integral and simultaneous part of every application for the issuance, renewal, or update of a driver's license or nondriver identification card all of the following information from each applicant:

(1) Full name, including first, middle, last, and any premarital names.

(2) Date of birth.

1 (3) Residential address including county, and, if
2 different, mailing address.

3 (4) Date and applicant's signature.

4 (5) Telephone number, if available.

5 (6) Last four digits of Social Security number.

6 (7) Driver's license number, if available.

7 (8) A notation that the applicant has attested that
8 he or she meets all voter eligibility requirements, including
9 United States citizenship.

10 (9) Whether the applicant affirmatively declined to
11 become registered to vote during the transaction with the
12 Alabama State Law Enforcement Agency or other license issuing
13 official by a signed statement that the applicant refuses to
14 register to vote or does not meet the qualifications to
15 register to vote.

16 (10) Any other information the Secretary of State,
17 by rule, determines to be reasonably necessary to implement
18 this section.

19 (b) Unless the applicant affirmatively declines by
20 use of an opt-out process to become registered to vote or
21 update his or her voter registration during the transaction
22 with the license issuing official, the official shall release
23 all of the information obtained pursuant to subsection (a) to
24 the Secretary of State, as further provided in subsection (f).
25 The Secretary of State shall forward the information to the
26 board of registrars for the relevant county, and the board of
27 registrars shall process the newly automatically registered

1 voter or update information for the elector. If the applicant
2 affirmatively declines to become registered to vote, the
3 license issuing official shall transmit the first name, middle
4 name, last name, premarital name, if applicable, residence
5 address, date of birth, and signature to the Secretary of
6 State, along with the notation that the applicant
7 affirmatively declined to become registered through an opt-out
8 process when applying for, renewing, or updating a driver's
9 license or nondriver identification card.

10 (c) The license issuing official shall notify the
11 applicant that by submitting his or her signature, the
12 applicant grants written consent for the submission of the
13 information obtained and required to be submitted to the
14 Secretary of State pursuant to this section. Information
15 regarding an applicant's failure to sign the voter
16 registration application is confidential and may not be used
17 for any purpose other than to determine voter registration.

18 (d) An application for voter registration submitted
19 pursuant to this section updates a previous voter registration
20 by the applicant and authorizes the cancellation of
21 registration in any other county or state in which the
22 applicant was previously registered.

23 (e) A change of address from one residence to
24 another that is submitted for updating a driver's license or
25 nondriver identification card serves as a notice of change of
26 address for voter registration purposes.

1 (f) Completed applications for voter registration or
2 change of address for voting purposes received by a license
3 issuing official shall be forwarded to the Secretary of State
4 within five days of receipt. The Secretary of State shall
5 remove and file any forms that have not been signed by the
6 applicant and shall forward completed, signed applications to
7 the board of registrars of the appropriate county within five
8 days of receipt.

9 (g) Voter registration applications submitted to a
10 license issuing official that are unsigned shall be collected
11 by the official and submitted to and maintained by the
12 Secretary of State according to the retention policy adopted
13 by the Secretary of State, provided that the retention policy
14 shall require the records to be retained for at least four
15 years.

16 (h) Information obtained pursuant to this section is
17 not a public record for purposes of Chapter 13 of Title 41,
18 Code of Alabama 1975, and the Secretary of State, by rule,
19 shall establish procedures to protect the confidentiality of
20 the information obtained pursuant to this section.

21 (i) This section shall not be construed as requiring
22 or authorizing the Alabama State Law Enforcement Agency,
23 judges of probate, license commissioners, or other license
24 issuing officials to determine eligibility for voter
25 registration or voting.

26 (j) The Alabama State Law Enforcement Agency and the
27 Secretary of State may adopt rules to implement this section.

1 Section 3. (a) Registered voters may vote in advance
2 of election day, without excuse, in person or by mail for all
3 federal or state and federal general elections as provided in
4 this section.

5 (b) Early voting shall be conducted from the sixth
6 Tuesday before the election until the close of regular
7 business hours on the Monday immediately before the election
8 for both in person and mail-in voting. The hours for
9 conducting early voting shall be weekdays 9:00 a.m. to 5:00
10 p.m., except for the 21 days immediately before election day,
11 the hours for voting shall also include Saturdays and Sundays
12 from 11:00 a.m. to 5:00 p.m., and beginning on the Tuesday
13 immediately before election day, the hours for conducting
14 early voting shall be from 8:00 a.m. to 7:00 p.m.

15 (c) The judge of probate in each county shall
16 establish at least one early voting location for every three
17 voting precincts within the county, and ensure that the
18 locations are as centrally located as practicable. In
19 determining where to locate the early voting locations, the
20 judge of probate shall consider factors including, but not
21 limited to, the geographic location and demographics of
22 voters.

23 (d) The judge of probate shall provide adequate
24 public notice of the hours and locations for early voting at
25 the office of the judge of probate and the office of the
26 appropriate board of registrars, on the website for the county

1 and appropriate municipalities, and by any other methods
2 deemed reasonable.

3 (e) Election officials shall be appointed to serve
4 at each early voting location in the same manner as is
5 provided in Section 17-8-1, Code of Alabama 1975, and the
6 casting of ballots and tabulating of ballots shall be
7 conducted the same as provided in Chapter 9 of Title 17, Code
8 of Alabama 1975.

9 (f) The judges of probate and Secretary of State
10 shall make available a list of all electors who voted during
11 the early voting period. The list shall include voter
12 information that is a matter of public record.

13 (g) The Secretary of State may adopt rules to ensure
14 that electors who vote during the early voting period do not
15 vote again on election day, except by provisional ballot as
16 otherwise provided by law.

17 Section 4. This act shall become effective on the
18 first day of the third month following its passage and
19 approval by the Governor, or its otherwise becoming law.