

SENATE BILL NO. 861

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR ONDER.

4141S.01H

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 115.225, 115.237, and 115.427, RSMo, and to enact in lieu thereof three new sections relating to elections.

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

Section A. Sections 115.225, 115.237, and 115.427, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 115.225, 115.237, and 115.427, to read as follows:

115.225. 1. Before use by election authorities in this state, the secretary of state shall approve the marking devices and the automatic tabulating equipment used in electronic voting systems and may promulgate rules and regulations to implement the intent of sections 115.225 to 115.235.

2. No electronic voting system shall be approved unless it:

(1) Permits voting in absolute secrecy;

(2) Permits each voter to vote for as many candidates for each office as a voter is lawfully entitled to vote for;

(3) Permits each voter to vote for or against as many questions as a voter is lawfully entitled to vote on, and no more;

(4) Provides facilities for each voter to cast as many write-in votes for each office as a voter is lawfully entitled to cast;

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

18 (5) Permits each voter in a primary election to vote
19 for the candidates of only one party announced by the voter
20 in advance;

21 (6) Permits each voter at a presidential election to
22 vote by use of a single mark for the candidates of one party
23 or group of petitioners for president, vice president and
24 their presidential electors;

25 (7) Accurately counts all proper votes cast for each
26 candidate and for and against each question;

27 (8) Is set to reject all votes, except write-in votes,
28 for any office and on any question when the number of votes
29 exceeds the number a voter is lawfully entitled to cast;

30 (9) **Produces the election results from paper ballots**
31 **that voters have marked by hand or, in the case of disabled**
32 **voters who need assistance, from paper ballots that have**
33 **been marked by paper ballot-marking devices designed to**
34 **assist disabled voters;**

35 (10) Permits each voter, while voting, to clearly see
36 the ballot label;

37 [(10)] (11) Has been tested and is certified by an
38 independent authority that meets the voting system standards
39 developed by the Federal Election Commission or its
40 successor agency. The provisions of this subdivision shall
41 not be required for any system purchased prior to August 28,
42 2002.

43 3. **If any election authority uses any touch-screen,**
44 **direct-record, electronic vote-counting machine, the**
45 **election authority may continue to use such machine. Upon**
46 **the removal of such voting machine from the election**
47 **authority's inventory because of mechanical malfunction,**
48 **wear and tear, or any other reason, the machine shall not be**
49 **replaced and no additional touchscreen direct-recording**

50 **electronic vote-counting machine shall be added to the**
51 **election authority's inventory. Such machine shall not be**
52 **used beginning January 1, 2023, except that election**
53 **authorities may allow the machines to be used by voters with**
54 **disabilities as long as the machines are functional.**
55 **Replacement of equipment for use by voters with disabilities**
56 **shall be with paper ballot marking devices.**

57 **4.** The secretary of state shall promulgate rules and
58 regulations to allow the use of a computerized voting
59 system. The procedures shall provide for the use of a
60 computerized voting system with the ability to provide a
61 paper audit trail. Notwithstanding any provisions of this
62 chapter to the contrary, such a system may allow for the
63 storage of processed ballot materials in an electronic form.

64 **[4.] 5.** Any rule or portion of a rule, as that term is
65 defined in section 536.010, that is created under the
66 authority delegated in this section shall become effective
67 only if it complies with and is subject to all of the
68 provisions of chapter 536 and, if applicable, section
69 536.028. This section and chapter 536 are nonseverable and
70 if any of the powers vested with the general assembly
71 pursuant to chapter 536 to review, to delay the effective
72 date or to disapprove and annul a rule are subsequently held
73 unconstitutional, then the grant of rulemaking authority and
74 any rule proposed or adopted after August 28, 2002, shall be
75 invalid and void.

115.237. 1. Each ballot printed or designed for use
2 with an electronic voting system for any election pursuant
3 to this chapter shall contain all questions and the names of
4 all offices and candidates certified or filed pursuant to
5 this chapter and no other. **The official ballot shall be a**
6 **paper ballot that is hand-marked by the voter, or in the**

7 **case of voters with disabilities who need assistance, by a**
8 **paper ballot-marking device designed to assist the disabled,**
9 **except as provided in subsection 5 of section 115.225.** As
10 far as practicable, all questions and the names of all
11 offices and candidates for which each voter is entitled to
12 vote shall be printed on one page except for the ballot for
13 political party committee persons in polling places not
14 utilizing an electronic voting system which may be printed
15 separately and in conformity with the requirements contained
16 in this section. As far as practicable, ballots containing
17 only questions and the names of nonpartisan offices and
18 candidates shall be printed in accordance with the
19 provisions of this section, except that the ballot
20 information may be listed in vertical or horizontal rows.
21 The names of candidates for each office shall be listed in
22 the order in which they are filed.

23 2. In polling places using electronic voting systems,
24 the ballot information may be arranged in vertical or
25 horizontal rows or on a number of separate pages or
26 screens. In any event, the name of each candidate, the
27 candidate's party, the office for which he or she is a
28 candidate, and each question shall be indicated clearly on
29 the ballot.

30 3. Nothing in this subchapter shall be construed as
31 prohibiting the use of a separate paper ballot for questions
32 or for the presidential preference primary in any polling
33 place using an electronic voting system.

34 4. Where electronic voting systems are used and when
35 write-in votes are authorized by law, a write-in ballot,
36 which may be in the form of a separate paper ballot, card,
37 or envelope, may be provided by the election authority to

38 permit each voter to write in the names of persons whose
39 names do not appear on the ballot.

40 5. No ballot printed or designed for use with an
41 electronic voting system for any partisan election held
42 under this chapter shall allow a person to vote a straight
43 political party ticket. For purposes of this subsection, a
44 "straight political party ticket" means voting for all of
45 the candidates for elective office who are on the ballot
46 representing a single political party by a single selection
47 on the ballot.

48 6. The secretary of state shall promulgate rules that
49 specify uniform standards for ballot layout for each
50 electronic or computerized ballot counting system approved
51 under the provisions of section 115.225 so that the ballot
52 used with any counting system is, where possible, consistent
53 with the intent of this section. Nothing in this section
54 shall be construed to require the format specified in this
55 section if it does not meet the requirements of the ballot
56 counting system used by the election authority.

57 7. Any rule or portion of a rule, as that term is
58 defined in section 536.010, that is created under the
59 authority delegated in this section shall become effective
60 only if it complies with and is subject to all of the
61 provisions of chapter 536 and, if applicable, section
62 536.028. This section and chapter 536 are nonseverable and
63 if any of the powers vested with the general assembly
64 pursuant to chapter 536 to review, to delay the effective
65 date or to disapprove and annul a rule are subsequently held
66 unconstitutional, then the grant of rulemaking authority and
67 any rule proposed or adopted after August 28, 2002, shall be
68 invalid and void.

115.427. 1. Persons seeking to vote in a public
election shall establish their identity and eligibility to
vote at the polling place, **or, if voting absentee in person
under section 115.277, at the office of the election
authority**, by presenting a form of personal identification
to election officials. No form of personal identification
other than the forms listed in this section shall be
accepted to establish a voter's qualifications to vote.

Forms of personal identification that satisfy the
requirements of this section are any one of the following:

(1) Nonexpired Missouri driver's license;

(2) Nonexpired or nonexpiring Missouri nondriver's
license;

(3) A document that satisfies all of the following
requirements:

(a) The document contains the name of the individual
to whom the document was issued, and the name substantially
conforms to the most recent signature in the individual's
voter registration record;

(b) The document shows a photograph of the individual;

(c) The document includes an expiration date, and the
document is not expired, or, if expired, the document
expired after the date of the most recent general election;
and

(d) The document was issued by the United States or
the state of Missouri; or

(4) Any identification containing a photograph of the
individual which is issued by the Missouri National Guard,
the United States Armed Forces, or the United States
Department of Veteran Affairs to a member or former member
of the Missouri National Guard or the United States Armed

32 Forces and that is not expired or does not have an
33 expiration date.

34 2. (1) An individual who appears at a polling place
35 without a form of personal identification described in
36 subsection 1 of this section and who is otherwise qualified
37 to vote at that polling place [may execute a statement,
38 under penalty of perjury, averring that the individual is
39 the person listed in the precinct register; averring that
40 the individual does not possess a form of personal
41 identification described in subsection 1 of this section;
42 acknowledging that the individual is eligible to receive a
43 Missouri nondriver's license free of charge if desiring it
44 in order to vote; and acknowledging that the individual is
45 required to present a form of personal identification, as
46 described in subsection 1 of this section, in order to
47 vote. Such statement shall be executed and sworn to before
48 the election official receiving the statement. Upon
49 executing such statement, the individual may cast a regular
50 ballot, provided such individual presents one of the
51 following forms of identification:

52 (a) Identification issued by the state of Missouri, an
53 agency of the state, or a local election authority of the
54 state;

55 (b) Identification issued by the United States
56 government or agency thereof;

57 (c) Identification issued by an institution of higher
58 education, including a university, college, vocational and
59 technical school, located within the state of Missouri;

60 (d) A copy of a current utility bill, bank statement,
61 government check, paycheck, or other government document
62 that contains the name and address of the individual;

63 (e) Other identification approved by the secretary of
64 state under rules promulgated pursuant to this section.

65 (2) For any individual who appears at a polling place
66 without a form of personal identification described in
67 subsection 1 of this section and who is otherwise qualified
68 to vote at that polling place, the election authority may
69 take a picture of such individual and keep it as part of
70 that individual's voter registration file at the election
71 authority.

72 (3) Any individual who chooses not to execute the
73 statement described in subdivision (1) of this subsection
74 may cast a provisional ballot. Such provisional ballot
75 shall be counted, provided that it meets the requirements of
76 subsection 4 of this section.

77 (4) For the purposes of this section, the term
78 "election official" shall include any person working under
79 the authority of the election authority.

80 3. The statement to be used for voting under
81 subdivision (1) of subsection 2 of this section shall be
82 substantially in the following form:

83 "State of _____

84 County of _____

85 I do solemnly swear (or affirm) that my name is
86 _____; that I reside at _____; that I am the
87 person listed in the precinct register under this
88 name and at this address; and that, under penalty
89 of perjury, I do not possess a form of personal
90 identification approved for voting. As a person
91 who does not possess a form of personal
92 identification approved for voting, I acknowledge
93 that I am eligible to receive free of charge a
94 Missouri nondriver's license at any fee office if
95 desiring it in order to vote. I furthermore
96 acknowledge that I am required to present a form

97 of personal identification, as prescribed by law,
98 in order to vote.

99 I understand that knowingly providing false
100 information is a violation of law and subjects me
101 to possible criminal prosecution.

102 _____

103 Signature of voter

104 Subscribed and affirmed before me this _____ day
105 of _____, 20_____

106 _____

107 Signature of election official"

108 4. A voter] shall be allowed to cast a provisional
109 ballot [under section 115.430 even if the election judges
110 cannot establish the voter's identity under this section]
111 pursuant to this subsection. The election judges shall make
112 a notation on the provisional ballot envelope to indicate
113 that the voter's identity was not verified.

114 (2) No person described in subdivision (1) of this
115 subsection shall be entitled to receive a provisional ballot
116 until such person has completed a provisional ballot
117 affidavit on the provisional ballot envelope described in
118 subdivision (3) of this subsection. All provisional ballots
119 cast pursuant to this subsection shall be marked with a
120 conspicuous stamp or mark that makes them distinguishable
121 from other ballots.

122 (3) (a) The provisional ballot envelope shall be
123 completed by the voter for use in determining the voter's
124 eligibility to cast a ballot.

125 (b) The provisional ballot envelope shall provide a
126 place for the voter's name, address, date of birth, and last

127 four digits of his or her Social Security number, followed
128 by a certificate in substantially the following form:

129 "I do solemnly swear that I am the person
130 identified above and the information provided is
131 correct. I understand that my vote will not be
132 counted unless:

133 (1) I return to this polling place today between
134 6:00 a.m. and 7:00 p.m. and provide one of the
135 following forms of identification:

136 (a) Nonexpired Missouri driver's license;

137 (b) Nonexpired or nonexpiring Missouri nondriver's
138 license;

139 (c) A document that satisfies all of the following
140 requirements:

141 a. The document contains my name, in substantially
142 the same form as the most recent signature on my
143 voter registration record;

144 b. The document contains my photograph;

145 c. The document contains an expiration date and
146 the document is not expired, or if expired, the
147 document expired after the date of the most recent
148 general election; and

149 d. The document was issued by the United States or
150 the state of Missouri; or

151 (d) Identification containing my photograph issued
152 to me by the Missouri National Guard, the United
153 States Armed Forces, or the United States
154 Department of Veteran Affairs as a member or former
155 member of the Missouri National Guard or the United
156 States Armed Forces and that is not expired or does
157 not have an expiration date; or

158 (2) The election authority verifies my identity by
159 comparing my signature on this envelope to the
160 signature on file with the election authority and
161 determines that I was eligible to cast a ballot at
162 this polling place; and

163 (3) This provisional ballot otherwise qualifies to
164 be counted under the laws of the state of Missouri.

165
166 _____
167 Signature of Voter Date

168 _____
169 Signatures of Elections Officials"

170 Once voted, the provisional ballot shall be sealed in the
171 provisional ballot envelope and deposited in the ballot box.

172 3. The provisional ballot cast by such voter shall not
173 be counted unless:

174 (1) (a) The voter returns to the polling place during
175 the uniform polling hours established by section 115.407 and
176 provides a form of personal identification that allows the
177 election judges to verify the voter's identity as provided
178 in subsection 1 of this section; or

179 (b) The election authority verifies the identity of
180 the individual by comparing that individual's signature to
181 the signature on file with the election authority and
182 determines that the individual was eligible to cast a ballot
183 at the polling place where the ballot was cast; and

184 (2) The provisional ballot otherwise qualifies to be
185 counted under section 115.430.

186 [5. The secretary of state shall provide advance
187 notice of the personal identification requirements of
188 subsection 1 of this section in a manner calculated to
189 inform the public generally of the requirement for forms of
190 personal identification as provided in this section. Such
191 advance notice shall include, at a minimum, the use of
192 advertisements and public service announcements in print,
193 broadcast television, radio, and cable television media, as

194 well as the posting of information on the opening pages of
195 the official state internet websites of the secretary of
196 state and governor.

197 6.] 4. (1) Notwithstanding the provisions of section
198 136.055 and section 302.181 to the contrary, the state and
199 all fee offices shall provide one nondriver's license at no
200 cost to any otherwise qualified voter who does not already
201 possess such identification and who desires the
202 identification [in order to vote] **for voting**.

203 (2) This state and its agencies shall provide one copy
204 of each of the following, free of charge, if needed by an
205 individual seeking to obtain a form of personal
206 identification described in subsection 1 of this section [in
207 order to vote] **for voting**:

- 208 (a) A birth certificate;
- 209 (b) A marriage license or certificate;
- 210 (c) A divorce decree;
- 211 (d) A certificate of decree of adoption;
- 212 (e) A court order changing the person's name;
- 213 (f) A Social Security card reflecting an updated name;
- 214 and
- 215 (g) Naturalization papers or other documents from the
216 United States Department of State proving citizenship.

217 Any individual seeking one of the above documents in order
218 to obtain a form of personal identification described in
219 subsection 1 of this section [in order to vote] **for voting**
220 may request the secretary of state to facilitate the
221 acquisition of such documents. The secretary of state shall
222 pay any fee or fees charged by another state or its
223 agencies, or any court of competent jurisdiction in this
224 state or any other state, or the federal government or its

225 agencies, in order to obtain any of the above documents from
226 such state or the federal government.

227 (3) [All costs associated with the implementation of
228 this section shall be reimbursed from the general revenue of
229 this state by an appropriation for that purpose. If there
230 is not a sufficient appropriation of state funds, then the
231 personal identification requirements of subsection 1 of this
232 section shall not be enforced.

233 (4) Any applicant who requests a nondriver's license
234 for [the purpose of] voting shall not be required to pay a
235 fee [if the applicant executes a statement, under penalty of
236 perjury, averring that the applicant does not have any other
237 form of personal identification that meets the requirements
238 of this section]. The state of Missouri shall pay the
239 legally required fees for any such applicant. [The director
240 of the department of revenue shall design a statement to be
241 used for this purpose. The total cost associated with
242 nondriver's license photo identification under this
243 subsection shall be borne by the state of Missouri from
244 funds appropriated to the department of revenue for that
245 specific purpose.] The department of revenue and a local
246 election authority may enter into a contract that allows the
247 local election authority to assist the department in issuing
248 nondriver's license photo identifications.

249 [7.] 5. The director of the department of revenue
250 shall, by January first of each year, prepare and deliver to
251 each member of the general assembly a report documenting the
252 number of individuals who have requested and received a
253 nondriver's license photo identification for the purposes of
254 voting under this section. The report shall also include
255 the number of persons requesting a nondriver's license for
256 purposes of voting under this section, but not receiving

257 such license, and the reason for the denial of the
258 nondriver's license.

259 [8.] 6. The precinct register shall serve as the voter
260 identification certificate. The following form shall be
261 printed at the top of each page of the precinct register:

262 VOTER'S IDENTIFICATION CERTIFICATE

263 Warning: It is against the law for anyone to vote,
264 or attempt to vote, without having a lawful right
265 to vote.

266 PRECINCT

267 WARD OR TOWNSHIP _____

268 GENERAL (SPECIAL, PRIMARY) ELECTION

269 Held _____, 20_____

270 Date

271 I hereby certify that I am qualified to vote at
272 this election by signing my name and verifying my
273 address by signing my initials next to my address.

274 [9.] 7. The secretary of state shall promulgate rules
275 to effectuate the provisions of this section.

276 [10.] 8. Any rule or portion of a rule, as that term
277 is defined in section 536.010, that is created under the
278 authority delegated in this section shall become effective
279 only if it complies with and is subject to all of the
280 provisions of chapter 536 and, if applicable, section
281 536.028. This section and chapter 536 are nonseverable and
282 if any of the powers vested with the general assembly
283 pursuant to chapter 536 to review, to delay the effective
284 date or to disapprove and annul a rule are subsequently held
285 unconstitutional, then the grant of rulemaking authority and
286 any rule proposed or adopted after August 28, 2002, shall be
287 invalid and void.

288 [11.] 9. If any voter is unable to sign his name at
289 the appropriate place on the certificate or computer
290 printout, an election judge shall print the name and address
291 of the voter in the appropriate place on the precinct
292 register, the voter shall make his mark in lieu of
293 signature, and the voter's mark shall be witnessed by the
294 signature of an election judge.

295 [12. This section shall become effective only upon the
296 passage and approval by the voters of a constitutional
297 amendment submitted to them by the general assembly
298 regarding the authorization of photo identification
299 requirements for elections by general law. If such
300 constitutional amendment is approved by the voters, this
301 section shall become effective June 1, 2017.]

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