

118TH CONGRESS
1ST SESSION

S. 1391

To amend title 39, United States Code, and the Help America Vote Act of 2002 to improve procedures and requirements related to election mail.

IN THE SENATE OF THE UNITED STATES

MAY 1, 2023

Ms. KLOBUCHAR introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To amend title 39, United States Code, and the Help America Vote Act of 2002 to improve procedures and requirements related to election mail.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Election Mail Act”.

5 **SEC. 2. SAME-DAY PROCESSING OF ABSENTEE BALLOTS.**

6 (a) IN GENERAL.—Chapter 34 of title 39, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

1 **“§ 3407. Same-day processing of ballots**

2 “(a) IN GENERAL.—The Postal Service shall ensure,
3 to the maximum extent practicable, that any ballot carried
4 by the Postal Service is processed by and cleared from
5 any postal facility or post office on the same day that the
6 ballot is received by that postal facility or post office.

7 “(b) DEFINITIONS.—As used in this section—

8 “(1) the term ‘ballot’ means any ballot trans-
9 mitted by a voter by mail in an election for Federal
10 office, but does not include any ballot covered by
11 section 3406; and

12 “(2) the term ‘election for Federal office’ means
13 a general, special, primary, or runoff election for the
14 office of President or Vice President, or of Senator
15 or Representative in, or Delegate or Resident Com-
16 missioner to, the Congress.”.

17 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

18 (1) CHAPTER HEADING.—The heading for
19 chapter 34 of title 39, United States Code, is
20 amended by striking “**ARMED FORCES AND**
21 **FREE POSTAGE**” and inserting “**ARMED**
22 **FORCES; FREE POSTAGE; ELECTION**
23 **MAIL**”.

24 (2) TABLE OF CHAPTERS.—The table of chap-
25 ters for part IV of title 39, United States Code, is

1 amended by striking the item relating to chapter 34
2 and inserting the following:

“34. Armed Forces; Free Postage; Election Mail 3401”.

3 (3) TABLE OF SECTIONS.—The table of sections
4 for chapter 34 of title 39, United States Code, is
5 amended by adding at the end the following:

“3407. Same-day processing of ballots.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this subsection shall apply to absentee ballots relating to
8 an election for Federal office occurring on or after the
9 date that is 60 days after the date of enactment of this
10 Act.

11 SEC. 3. INTELLIGENT MAIL BARCODES FOR BALLOTS.

12 (a) IN GENERAL.—Title III of the Help America
13 Vote Act of 2002 (52 U.S.C. 21081) is amended—

14 (1) by redesignating section 311 and section
15 312 as sections 321 and 322, respectively;

16 (2) by redesignating subtitle B as subtitle C;
17 and

18 (3) by inserting after subtitle A the following
19 new subtitle:

20 “Subtitle B—Requirements
21 Relating to Mailed Ballots

22 “SEC. 311. USE OF INTELLIGENT MAIL BARCODES.

23 “(a) IN GENERAL.—Each State and jurisdiction shall
24 provide with each ballot for an election for Federal office

1 that is sent by mail a return envelope that contains an
2 intelligent mail barcode, as prescribed by the United
3 States Postal Service.

4 “(b) EXCEPTION.—Subsection (a) shall not apply to
5 any ballot for which a State or jurisdiction uses an alter-
6 native system that enables voters to track the ballot
7 through the mail.

8 “(c) STATE.—For purposes of this section, the term
9 ‘State’ includes the District of Columbia, the Common-
10 wealth of Puerto Rico, Guam, American Samoa, the
11 United States Virgin Islands, and the Commonwealth of
12 the Northern Mariana Islands.

13 “(d) EFFECTIVE DATE.—The requirements of this
14 section shall apply to elections for Federal office occurring
15 on or after January 1, 2024.”

16 (b) ENFORCEMENT.—Section 401 of the Help Amer-
17 ica Vote Act of 2002 (52 U.S.C. 21111) is amended by
18 inserting “or the requirements relating to mailed ballots
19 under subtitle B of title III” before the period at the end.

20 (c) CONFORMING AMENDMENT.—Section 321(a) of
21 such Act (52 U.S.C. 21101), as redesignated by sub-
22 section (a), is amended by striking “section 312” and in-
23 serting “section 322”.

24 (d) CLERICAL AMENDMENTS.—The table of contents
25 of such Act is amended—

1 (1) by striking “Subtitle B—Voluntary” and in-
 2 sserting “Subtitle C—Voluntary”;

3 (2) by redesignating the items relating to sec-
 4 tions 311 and 312 as relating to sections 321 and
 5 322, respectively; and

6 (3) by inserting after the item relating to sec-
 7 tion 305 the following:

“Subtitle B—Requirements Relating to Mailed Ballots

“Sec. 311. Use of intelligent mail barcodes.”.

8 **SEC. 4. ELECTION MAIL AND DELIVERY IMPROVEMENTS.**

9 (a) **POSTMARK REQUIRED FOR BALLOTS.—**

10 (1) **IN GENERAL.—**Chapter 34 of title 39,
 11 United States Code, as amended by section 2, is
 12 amended by adding at the end the following:

13 **“§ 3408. Postmark required for ballots**

14 “(a) **IN GENERAL.—**In the case of any absentee bal-
 15 lot carried by the Postal Service, the Postal Service shall
 16 indicate on the ballot envelope, using a postmark or other-
 17 wise—

18 “(1) the fact that the ballot was carried by the
 19 Postal Service; and

20 “(2) the date on which the ballot was mailed.

21 “(b) **DEFINITIONS.—**As used in this section—

22 “(1) the term ‘absentee ballot’ means any ballot
 23 transmitted by a voter by mail in an election for

1 Federal office, but does not include any ballot cov-
 2 ered by section 3406; and

3 “(2) the term ‘election for Federal office’ means
 4 a general, special, primary, or runoff election for the
 5 office of President or Vice President, or of Senator
 6 or Representative in, or Delegate or Resident Com-
 7 missioner to, the Congress.”.

8 (2) TECHNICAL AND CONFORMING AMEND-
 9 MENT.—The table of sections for chapter 34 of title
 10 39, United States Code, as amended by section 2, is
 11 amended by adding at the end the following:

“3408. Postmark required for ballots.”.

12 (3) EFFECTIVE DATE.—The amendments made
 13 by this subsection shall apply to absentee ballots re-
 14 lating to an election for Federal office occurring on
 15 or after the date that is 60 days after the date of
 16 enactment of this Act.

17 (b) GREATER VISIBILITY FOR BALLOTS.—

18 (1) IN GENERAL.—Subtitle C of title III of the
 19 Help America Vote Act of 2002 (52 U.S.C. 21081
 20 et seq.), as added by section 3, is amended by add-
 21 ing at the end the following new section:

22 **“SEC. 312. BALLOT VISIBILITY.**

23 “(a) IN GENERAL.—Each State or local election offi-
 24 cial shall—

1 “(1) affix Tag 191, Domestic and International
2 Mail-In Ballots (or any successor tag designated by
3 the United States Postal Service), to any tray or
4 sack of official ballots relating to an election for
5 Federal office that is destined for a domestic or
6 international address;

7 “(2) use the Official Election Mail logo to des-
8 ignate official ballots relating to an election for Fed-
9 eral office that is destined for a domestic or inter-
10 national address; and

11 “(3) if an intelligent mail barcode (as described
12 in section 311) is utilized for any official ballot re-
13 lating to an election for Federal office that is des-
14 tined for a domestic or international address, ensure
15 the specific ballot service type identifier for such
16 mail is visible.

17 “(b) EFFECTIVE DATE.—The requirements of this
18 section shall apply to elections for Federal office occurring
19 on and after the date that is 60 days after the date of
20 enactment of this section.”.

21 (2) ISSUANCE OF VOLUNTARY GUIDANCE BY
22 ELECTION ASSISTANCE COMMISSION.—Section
23 321(b) of such Act (52 U.S.C. 21101(b)), as reded-
24 icated by section 3, is amended—

1 (A) by striking “and” at the end of para-
 2 graph (2);

3 (B) by striking the period at the end of
 4 paragraph (3) and inserting “; and”; and

5 (C) by adding at the end the following new
 6 paragraph:

7 “(4) in the case of the recommendations with
 8 respect to section 312, the date described in section
 9 312(b).”.

10 (3) CLERICAL AMENDMENT.—The table of con-
 11 tents of such Act, as amended by section 3, is
 12 amended by inserting after the item relating to sec-
 13 tion 311 the following new item:

“Sec. 312. Ballot visibility.”.

14 **SEC. 5. CARRIAGE OF ELECTION MAIL.**

15 (a) TREATMENT OF ELECTION MAIL.—

16 (1) TREATMENT AS FIRST-CLASS MAIL; FREE
 17 POSTAGE.—Chapter 34 of title 39, United States
 18 Code, as amended by section 4(a), is amended by
 19 adding at the end the following:

20 **“§ 3409. Domestic election mail; restriction of oper-
 21 ational changes prior to elections**

22 “(a) DEFINITIONS.—In this section:

23 “(1) ELECTION FOR FEDERAL OFFICE.—The
 24 term ‘election for Federal office’ means a general,
 25 special, primary, or runoff election for the office of

1 President or Vice President, or of Senator or Rep-
2 resentative in, or Delegate or Resident Commis-
3 sioner to, the Congress.

4 “(2) ELECTION MAIL.—The term ‘election mail’
5 means—

6 “(A) a blank or completed voter registra-
7 tion application form, voter registration card, or
8 similar materials, relating to an election for
9 Federal office;

10 “(B) a blank or completed absentee and
11 other mail-in ballot application form, and a
12 blank or completed absentee or other mail-in
13 ballot, relating to an election for Federal office,
14 and

15 “(C) other materials relating to an election
16 for Federal office that are mailed by a State or
17 local election official to an individual who is
18 registered to vote.

19 “(b) CARRIAGE OF ELECTION MAIL.—Election mail
20 (other than balloting materials covered under section 3406
21 (relating to the Uniformed and Overseas Absentee Voting
22 Act)), individually or in bulk, shall be carried in accord-
23 ance with the service standards established for first-class
24 mail under section 3691.

1 “(c) NO POSTAGE REQUIRED FOR COMPLETED BAL-
2 LOTS.—Completed absentee or other mail-in ballots (other
3 than balloting materials covered under section 3406 (relat-
4 ing to the Uniformed and Overseas Absentee Voting Act))
5 shall be carried free of postage.

6 “(d) RESTRICTION OF OPERATIONAL CHANGES.—
7 During the 120-day period that ends on the date of an
8 election for Federal office, the Postal Service may not
9 carry out any operational change that would restrict the
10 prompt and reliable delivery of election mail. This sub-
11 section applies to operational changes which include—

12 “(1) removing or eliminating any mail collection
13 box without immediately replacing it; and

14 “(2) removing, decommissioning, or any other
15 form of stopping the operation of mail sorting ma-
16 chines, other than for routine maintenance.

17 “(e) ELECTION MAIL COORDINATOR.—The Postal
18 Service shall appoint an Election Mail Coordinator at each
19 area office and district office to facilitate relevant informa-
20 tion sharing with State, territorial, local, and Tribal elec-
21 tion officials in regards to the mailing of election mail.”.

22 (2) REIMBURSEMENT OF POSTAL SERVICE FOR
23 REVENUE FORGONE.—Section 2401(e) of title 39,
24 United States Code, is amended by striking “sec-

1 tions 3217 and 3403 through 3406” and inserting
2 “sections 3217, 3403 through 3406, and 3409”.

3 (b) TECHNICAL AND CONFORMING AMENDMENT.—

4 The table of sections for chapter 34 of title 39, United
5 States Code, as amended by section 4(a), is amended by
6 adding at the end the following:

“3409. Domestic election mail; restriction of operational changes prior to elec-
tions.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect upon the expiration of the
9 180-day period that begins on the date of enactment of
10 this section.

11 **SEC. 6. UNITED STATES POSTAL SERVICE CONSULTATION.**

12 (a) IN GENERAL.—The Postmaster General shall
13 consult with Indian Tribes, on an annual basis, regarding
14 issues relating to the United States Postal Service that
15 present barriers to voting for eligible voters living on In-
16 dian lands.

17 (b) DEFINITIONS.—For purposes of this section—

18 (1) INDIAN LANDS.—The term “Indian lands”
19 means—

20 (A) any Indian country, as such term is
21 defined in section 1151 of title 18, United
22 States Code, of an Indian Tribe;

1 (B) any land in Alaska that is owned, pur-
2 suant to the Alaska Native Claims Settlement
3 Act (43 U.S.C. 1601 et seq.), by—

4 (i) an Indian Tribe that is a Native
5 village (as such term is defined in section
6 3 of such Act (43 U.S.C. 1602)); or

7 (ii) a Village Corporation (as such
8 term is defined in such section 3) that is
9 associated with an Indian Tribe described
10 in clause (i);

11 (C) any land on which the seat of govern-
12 ment of an Indian Tribe is located; and

13 (D) any land that is part or all of a Tribal
14 designated statistical area associated with an
15 Indian Tribe, or is part or all of an Alaska Na-
16 tive village statistical area associated with an
17 Indian Tribe, as defined by the Bureau of the
18 Census for the purposes of the most recent de-
19 cennial census.

20 (2) INDIAN TRIBE.—The term “Indian Tribe”
21 means the recognized governing body of any Indian
22 or Alaska Native Tribe, band, nation, pueblo, village,
23 community, component band, or component reserva-
24 tion, individually identified (including parentheti-
25 cally) in the list published most recently pursuant to

1 section 104 of the Federally Recognized Indian
2 Tribe List Act of 1994 (25 U.S.C. 5131).

3 **SEC. 7. UNIFORM DEADLINE FOR ACCEPTANCE OF MAILED**
4 **BALLOTS.**

5 (a) IN GENERAL.—Subtitle C of title III of the Help
6 America Vote Act of 2002 (52 U.S.C. 21081 et seq.), as
7 added by section 3 and amended by section 4, is amended
8 by adding at the end the following new section:

9 **“SEC. 313. UNIFORM DEADLINE FOR ACCEPTANCE OF**
10 **MAILED BALLOTS.**

11 “(a) IN GENERAL.—A State or local election official
12 may not refuse to accept or process a ballot submitted by
13 an individual by mail with respect to an election for Fed-
14 eral office in the State on the grounds that the individual
15 did not meet a deadline for returning the ballot to the
16 appropriate State or local election official if—

17 “(1) the ballot is postmarked or otherwise indi-
18 cated by the United States Postal Service to have
19 been mailed on or before the date of the election;
20 and

21 “(2) the ballot is received by the appropriate
22 election official prior to the expiration of the 7-day
23 period which begins on the date of the election.

24 “(b) RULE OF CONSTRUCTION.—Nothing in this sec-
25 tion shall be construed to prohibit a State from having

1 a law that allows for counting of ballots in an election for
2 Federal office that are received through the mail after the
3 date that is 7 days after the date of the election.

4 “(c) EFFECTIVE DATE.—This section shall apply
5 with respect to the regularly scheduled general election for
6 Federal office held in November 2024 and each succeeding
7 election for Federal office.”.

8 (b) CLERICAL AMENDMENT.—The table of contents
9 of such Act, as amended by sections 3 and 4, is amended
10 by inserting after the item relating to section 312 the fol-
11 lowing new item:

“Sec. 313. Uniform deadline for acceptance of mailed ballots.”.

