

1 HB567
2 168093-1
3 By Representatives Melton and England
4 RFD: Constitution, Campaigns and Elections
5 First Read: 28-APR-15

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8 SYNOPSIS: Under existing law, qualified electors may
9 vote by absentee ballot if they meet certain
10 requirements.

11 This bill would allow a qualified elector to
12 vote by absentee ballot without an excuse or
13 explanation.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT

18
19 Relating to absentee voting; to amend Sections
20 17-11-3, 17-11-5, and 17-11-7, Code of Alabama 1975; to allow
21 a qualified elector to vote by absentee ballot without an
22 excuse or explanation.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Sections 17-11-3, 17-11-5, and 17-11-7,
25 Code of Alabama 1975, are amended to read as follows:

26 "§17-11-3.

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

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

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

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

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

22 ~~"(5) The person is a member of, or spouse or~~
23 ~~dependent of a member of, the Armed Forces of the United~~
24 ~~States or is similarly qualified to vote absentee pursuant to~~
25 ~~the federal Uniformed and Overseas Citizens Absentee Voting~~
26 ~~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, may promulgate an emergency rule to allow
24 those qualified voters to vote by absentee ballot.
25 Notwithstanding any other laws to the contrary, all expenses
26 and costs incurred by the state or any county in carrying out
27 the responsibilities and duties included in an emergency rule

1 promulgated pursuant to this subsection shall be paid by the
2 State of Alabama from any funds made available for election
3 expenses under state and federal law.

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

18 "§17-11-5.

19 "(a) Upon receipt of an application for an absentee
20 ballot as provided in Section 17-11-3, if the applicant's name
21 appears on the list of qualified voters produced from the
22 state voter registration list in the election to be held, or
23 if the voter makes an affidavit for a challenged vote or
24 provisional ballot, the absentee election manager shall
25 furnish the absentee ballot to the applicant by: (1)
26 Forwarding it by United States mail to the applicant's or
27 voter's residence address or, upon written request of the

1 voter, to the address where the voter regularly receives mail
2 or (2) by handing the absentee ballot to the voter in person
3 or, in the case of emergency voting, his or her designee in
4 person. If the absentee election manager has reasonable cause
5 to believe that the applicant has given a fraudulent address
6 on the application for the absentee ballot, the absentee
7 election manager shall turn over the ballot application to the
8 district attorney for any action which may be necessary under
9 this chapter. ~~The absentee election manager may require~~
10 ~~additional proof of a voter's eligibility to vote absentee~~
11 ~~when there is evidence of continuous absentee voting.~~ The
12 absentee election manager shall mail any absentee ballot
13 requested to be mailed as provided in Section 17-11-3 no later
14 than the next business day after an application has been
15 received unless the absentee ballots have not been delivered
16 to the absentee election manager. If the absentee ballots have
17 not been so delivered, the absentee election manager shall
18 hold all requests until the ballots are delivered and shall
19 then respond by placing ballots in the mail no later than the
20 next business day.

21 "(b) The official list of qualified voters shall be
22 furnished to the absentee election manager by the judge of
23 probate using a printout from the state voter registration
24 list of registered voters for that county containing voter
25 registration information useful in the identification of
26 absentee voters. The information provided in this report shall
27 be established by rules adopted by the Secretary of State with

1 the advice of the Alabama Circuit Court Clerks Association or
2 its members and shall indicate whether the individual is
3 obligated to produce identification in accordance with
4 Sections 17-9-30 and 17-10-1. The Secretary of State may
5 further provide by administrative rule for electronic access
6 to this list for optional use by the absentee election
7 manager. This list shall be made available beginning at least
8 55 days before the election. In municipal elections, the
9 official list of qualified voters shall be furnished to the
10 absentee election manager at least 35 days before the
11 election. Any supplemental list of qualified electors shall
12 also be provided to the absentee election manager as soon as
13 the list becomes available. The absentee election manager
14 shall underscore on the list the name of each voter who has
15 applied for an absentee ballot and shall write immediately
16 beside his or her name the word "absentee." The Secretary of
17 State by rule may provide for electronic access to the
18 absentee election manager's county list of registered voters
19 and for the method of identifying applicants for absentee
20 ballots in conjunction with the state voter registration list.

21 "(c) (1) The absentee election manager shall enroll
22 the name, residence, and voting place of the applicant, and
23 the date the application was received on a list of absentee
24 voters. Each day the absentee election manager shall enter on
25 the list the names, addresses, and voting places of each voter
26 who has that day applied for an absentee ballot and shall, for
27 all elections other than municipal elections, post a copy of

1 the list of applications received each day on the regular
2 bulletin board or other public place in the county courthouse.
3 In municipal elections, the absentee election manager shall
4 post a copy of the list of applications received each day on
5 the regular bulletin board or other public place in the city
6 hall. The absentee election manager in all elections shall
7 deliver to the board of registrars the day following the
8 election, a copy of the list of all absentee voters. The list
9 shall be maintained in the office of the circuit clerk for 60
10 days after the election, at which time it shall be delivered
11 to the judge of probate. Before the polls open at any election
12 on election day, the absentee election manager shall
13 effectuate the delivery to the election officers of each
14 voting place a list showing the name and address of every
15 person whose name appears on the official list of qualified
16 electors for the voting place who applied for an absentee
17 ballot in the election. The name of the person who applied for
18 an absentee ballot shall be identified as an absentee voter on
19 the list of qualified electors kept at the voting place, and
20 the person shall not vote again, except that in county, state,
21 and federal elections the person may vote a provisional
22 ballot. Applications for absentee ballots are required for
23 elections which are more than 42 days apart, except as to
24 individuals voting pursuant to the federal Uniformed and
25 Overseas Absentee Voting Act, 42 U.S.C. 1973ff.

26 "(2) The absentee election manager shall redact any
27 information required to be redacted pursuant to Section

1 17-4-33 from any copy of an absentee voter list to be posted
2 or otherwise made a public record. This subdivision shall not
3 affect poll lists used at local precincts.

4 "(d) For individuals voting pursuant to the federal
5 Uniformed and Overseas Absentee Voting Act, 42 U.S.C. 1973ff,
6 the Secretary of State shall by rule prescribe use of
7 standardized military and overseas voter registration
8 applications and applications for absentee ballots adopted by
9 the United States government for such use. The Secretary of
10 State shall also prescribe by rule provisions within the
11 standard state application form for absentee voting which
12 permit the voter to identify himself or herself as a military
13 or overseas voter. Unless otherwise indicated by the military
14 or overseas voter, an application for an absentee ballot by
15 such a voter shall remain valid for any election for a
16 federal, state, or county office or for any proposed
17 constitutional amendment or a state or county referendum held
18 through the end of the calendar year in which the application
19 is filed. The absentee election manager shall provide an
20 absentee ballot to the military and overseas voters for each
21 such subsequent election. The absentee election manager,
22 within seven days after each regularly scheduled general
23 election for federal office, shall report the number of
24 military and overseas ballots mailed out and the number of
25 ballots received to the Secretary of State who shall report
26 this information to the Federal Election Assistance Commission

1 within 90 days of each regularly scheduled general election
2 for federal office.

3 "§17-11-7.

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

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

9 ""State of Alabama

10 "County of _____

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

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

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

15 (street)

16 _____, Alabama _____

17 (city or town)

(zip code)

18 "(3) My voting precinct (or place where I vote)
19 is: _____

20 _____

21 _____

22 "(4) My date of birth is: _____

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~~"(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.~~

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

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

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

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

4 "I have marked the enclosed absentee ballot
5 voluntarily and I have read or had read to me and understand
6 the instructions accompanying this ballot and I have carefully
7 complied with such instructions.

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

15 _____
16 (Signature or mark of voter.)

17 _____
18 (Printed name of voter.)

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

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

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

5 _____ (Signature of official)

6 (Title of official)

7 _____

8 (Address of official)

9 OR

10 1st Witness _____

11 Signature _____

12 _____

13 Print name _____

14 _____

15 Address _____

16 _____

17 City Zip Code _____

18 2nd Witness _____

19 Signature _____

20 _____

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Print name

Address

City Zip Code""

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