

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1480
98TH GENERAL ASSEMBLY

4532H.02T

2016

AN ACT

To repeal sections 115.257, 115.291, 115.293, and 115.299, RSMo, and to enact in lieu thereof four new sections relating to absentee ballots, with a delayed effective date.

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

Section A. Sections 115.257, 115.291, 115.293, and 115.299, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 115.257, 115.291, 115.293,
3 and 115.299, to read as follows:

115.257. 1. In jurisdictions where electronic voting machines are used, the election
2 authority shall cause the voting machines to be put in order, set, adjusted and made ready for
3 voting before they are delivered to polling places.

4 2. At least five days before preparing electronic voting machines for any election, notice
5 of the time and place of such preparation shall be mailed to each independent candidate and the
6 chairman of the county committee of each established political party named on the ballot. The
7 preparation shall be watched by two observers designated by the election authority, one from
8 each major political party, and shall be open to representatives of the political parties, candidates,
9 the news media and the public.

10 3. When an electronic voting machine has been examined by such observers and shown
11 to be in good working order, the machine shall be locked against voting. The observers shall
12 certify the vote count on each machine is set at zero.

13 4. After an electronic voting machine has been properly prepared and locked, its keys
14 shall be retained by the election authority and delivered to the election judges along with the
15 other election supplies.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 5. **For the purpose of processing absentee ballots, cast by voters in person in the**
17 **office of the election authority, the election authority may cause voting machines to be put**
18 **in order, set, adjusted, tested, and made ready for voting within one business day of the**
19 **printing of absentee ballots as provided in section 115.281. The election authority shall**
20 **have the recording counter except for the protective counter on the voting machine set to**
21 **zero (000). After the voting machines have been made ready for voting, the election**
22 **authority shall not permit any person to handle any voting machine, except voters while**
23 **they are voting and others expressly authorized by the election authority. The election**
24 **authority shall neither be nor permit any other person to be in any position or near any**
25 **position that enables the authority or person to see how any absentee voter votes or has**
26 **voted.**

27 6. Nothing in this section shall prohibit the on-site storage of electronic voting machines
28 and the preparation of the electronic machines for voting, provided the electronic voting
29 machines are put in order, set, adjusted and made ready for voting as provided in subsections 1,
30 2, 3 [and] , 4, and 5 of this section.

115.291. 1. Upon receiving an absentee ballot [in person or] by mail, the voter shall
2 mark the ballot in secret, place the ballot in the ballot envelope, seal the envelope and fill out the
3 statement on the ballot envelope. The affidavit of each person voting an absentee ballot shall
4 be subscribed and sworn to before the election official receiving the ballot, a notary public or
5 other officer authorized by law to administer oaths, unless the voter is voting absentee due to
6 incapacity or confinement due to the provisions of section 115.284, illness or physical disability,
7 or the voter is a covered voter as defined in section 115.902. If the voter is blind, unable to read
8 or write the English language, or physically incapable of voting the ballot, the voter may be
9 assisted by a person of the voter's own choosing. Any person assisting a voter who is not entitled
10 to such assistance, and any person who assists a voter and in any manner coerces or initiates a
11 request or a suggestion that the voter vote for or against or refrain from voting on any question,
12 ticket or candidate, shall be guilty of a class one election offense. If, upon counting, challenge
13 or election contest, it is ascertained that any absentee ballot was voted with unlawful assistance,
14 the ballot shall be rejected.

15 2. Except as provided in subsection 4 of this section, each absentee ballot **that is not**
16 **cast by the voter in person in the office of the election authority** shall be returned to the
17 election authority in the ballot envelope and shall only be returned by the voter in person, or in
18 person by a relative of the voter who is within the second degree of consanguinity or affinity, by
19 mail or registered carrier or by a team of deputy election authorities; except that covered voters,
20 when sent from a location determined by the secretary of state to be inaccessible on election day,
21 shall be allowed to return their absentee ballots cast by use of facsimile transmission or under

22 a program approved by the Department of Defense for electronic transmission of election
23 materials.

24 3. In cases of an emergency declared by the President of the United States or the
25 governor of this state where the conduct of an election may be affected, the secretary of state may
26 provide for the delivery and return of absentee ballots by use of a facsimile transmission device
27 or system. Any rule promulgated pursuant to this subsection shall apply to a class or classes of
28 voters as provided for by the secretary of state.

29 4. No election authority shall refuse to accept and process any otherwise valid marked
30 absentee ballot submitted in any manner by a covered voter solely on the basis of restrictions on
31 envelope type.

115.293. 1. All proper votes on each absentee ballot received by an election authority
2 at or before the time fixed by law for the closing of the polls on election day shall be counted.
3 **Except as provided in section 115.920**, no votes on any absentee ballot received by an election
4 authority after the time fixed by law for the closing of the polls on election day shall be counted.

5 2. If sufficient evidence is shown to an election authority that any absentee voter has died
6 prior to the opening of the polls on election day, the ballot of the deceased voter shall be rejected
7 **if it is still sealed in the ballot envelope**. Any ballot so rejected, still sealed in its ballot
8 envelope, shall be sealed with the application and any other papers connected therewith in an
9 envelope marked "Rejected ballot of, an absentee voter of
10 voting district". The reason for rejection shall be noted on the envelope, which shall be kept by
11 the election authority with the other ballots from the election until the ballots are destroyed
12 according to law.

115.299. 1. To count absentee votes on election day, the election authority shall appoint
2 a sufficient number of teams of election judges comprised of an equal number of judges from
3 each major political party.

4 2. The teams so appointed shall meet on election day after the time fixed by law for the
5 opening of the polls at a central location designated by the election authority. The election
6 authority shall deliver the absentee ballots to the teams, and shall maintain a record of the
7 delivery. The record shall include the number of ballots delivered to each team and shall include
8 a signed receipt from two judges, one from each major political party. The election authority
9 shall provide each team with a ballot box, tally sheets and statements of returns as are provided
10 to a polling place.

11 3. Each team shall count votes on all absentee ballots designated by the election
12 authority.

13 4. **[One] To process absentee ballots in envelopes**, one member of each team, closely
14 observed by another member of the team from a different political party, shall open each

15 envelope and call the voter's name in a clear voice. Without unfolding the ballot, two team
16 members, one from each major political party, shall initial the ballot, and an election judge shall
17 place the ballot, still folded, in a ballot box. No ballot box shall be opened until all of the ballots
18 a team is counting have been placed in the box. The votes shall be tallied and the returns made
19 as provided in sections 115.447 to 115.525 for paper ballots. After the votes on all ballots
20 assigned to a team have been counted, the ballots and ballot envelopes shall be placed on a string
21 and enclosed in sealed containers marked "voted absentee ballots and ballot envelopes from the
22 election held, 20....". All rejected absentee ballots and envelopes shall be enclosed
23 and sealed in a separate container marked "rejected absentee ballots and envelopes from the
24 election held, 20....". On the outside of each voted ballot and rejected ballot
25 container, each member of the team shall write his name, and all such containers shall be
26 returned to the election authority. Upon receipt of the returns and ballots, the election authority
27 shall tabulate the absentee vote along with the votes certified from each polling place in its
28 jurisdiction.

Section B. The repeal and reenactment of sections 115.257, 115.291, 115.293, and
2 115.299 of this act shall become effective on January 1, 2018.

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