

FIRST REGULAR SESSION

# SENATE BILL NO. 113

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EIGEL.

Pre-filed December 1, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0522S.011

## AN ACT

To repeal sections 115.225, 115.235, 115.237, 115.287, and 115.497, RSMo, and to enact in lieu thereof five new sections relating to elections.

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

Section A. Sections 115.225, 115.235, 115.237, 115.287, and 115.497, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 115.225, 115.235, 115.237, 115.287, and 115.497, to read as follows: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;

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

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

(7) Accurately counts all proper votes cast for each candidate and for and

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

19 against each question;

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

23 (9) **Produces the election results from paper ballots that voters**  
24 **mark with ballot marking devices or electronically assisted ballot**  
25 **marking devices;**

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

27 [(10)] (11) Has been tested and is certified by an independent authority  
28 that meets the voting system standards developed by the Federal Election  
29 Commission or its successor agency. The provisions of this subdivision shall not  
30 be required for any system purchased prior to August 28, 2002; and

31 (12) **Records electronically only from human readable ballot**  
32 **selections that can be verified by the voter.**

33 3. **Upon the removal of any direct recording electronic voting**  
34 **machine from an election authority's inventory because of mechanical**  
35 **malfunction, wear and tear, or any other reason, the machine shall not**  
36 **be replaced with another direct recording electronic voting machine**  
37 **and no additional direct recording electronic voting machine shall be**  
38 **added to an election authority's inventory. Replacement of equipment**  
39 **designed for use by disabled voters shall be with electronically assisted**  
40 **ballot marking devices.**

41 4. The secretary of state shall promulgate rules and regulations to allow  
42 the use of a computerized voting system. The procedures shall provide for the use  
43 of a computerized voting system with the ability to provide a paper audit  
44 trail. Notwithstanding any provisions of this chapter to the contrary, such a  
45 system may allow for the storage of processed ballot materials in an electronic  
46 form.

47 [4.] 5. Any rule or portion of a rule, as that term is defined in section  
48 536.010, that is created under the authority delegated in this section shall  
49 become effective only if it complies with and is subject to all of the provisions of  
50 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are  
51 nonseverable and if any of the powers vested with the general assembly pursuant  
52 to chapter 536 to review, to delay the effective date or to disapprove and annul  
53 a rule are subsequently held unconstitutional, then the grant of rulemaking  
54 authority and any rule proposed or adopted after August 28, 2002, shall be

55 invalid and void.

115.235. 1. In jurisdictions where electronic voting systems are used, the  
2 election authority shall cause the marking devices to be put in order, set,  
3 adjusted and made ready for voting, before they are delivered to polling places on  
4 election day.

5 **2. On each election day, a non-removable sign, placed in clear**  
6 **view of the voter and no smaller than four by six inches shall be affixed**  
7 **at each voting station used in the election. The sign shall, in large and**  
8 **legible font, contain the following language: "Be sure to check that**  
9 **your ballot selections are printed correctly on the ballot before placing**  
10 **it into the optical scanner or ballot box."**

115.237. 1. **The official ballot shall be a paper ballot that is**  
2 **marked by the voter using a paper ballot marking device or an**  
3 **electronically assisted ballot marking device, except for equipment not**  
4 **yet replaced as provided in subsection 3 of section 115.225.**

5 **2.** Each ballot printed or designed for use with an electronic voting system  
6 for any election pursuant to this chapter shall contain all questions and the  
7 names of all offices and candidates certified or filed pursuant to this chapter and  
8 no other. As far as practicable, all questions and the names of all offices and  
9 candidates for which each voter is entitled to vote shall be printed on one page  
10 except for the ballot for political party committee persons in polling places not  
11 utilizing an electronic voting system which may be printed separately and in  
12 conformity with the requirements contained in this section. As far as practicable,  
13 ballots containing only questions and the names of nonpartisan offices and  
14 candidates shall be printed in accordance with the provisions of this section,  
15 except that the ballot information may be listed in vertical or horizontal  
16 rows. The names of candidates for each office shall be listed in the order in  
17 which they are filed.

18 **[2.] 3.** In polling places using electronic voting systems, the ballot  
19 information may be arranged in vertical or horizontal rows or on a number of  
20 separate pages or screens. In any event, the name of each candidate, the  
21 candidate's party, the office for which he or she is a candidate, and each question  
22 shall be indicated clearly on the ballot.

23 **[3.] 4.** Nothing in this subchapter shall be construed as prohibiting the  
24 use of a separate paper ballot for questions or for the presidential preference  
25 primary in any polling place using an electronic voting system.

26 [4.] 5. Where electronic voting systems are used and when write-in votes  
27 are authorized by law, a write-in ballot, which may be in the form of a separate  
28 paper ballot, card, or envelope, may be provided by the election authority to  
29 permit each voter to write in the names of persons whose names do not appear  
30 on the ballot.

31 [5.] 6. No ballot printed or designed for use with an electronic voting  
32 system for any partisan election held under this chapter shall allow a person to  
33 vote a straight political party ticket. For purposes of this subsection, a "straight  
34 political party ticket" means voting for all of the candidates for elective office who  
35 are on the ballot representing a single political party by a single selection on the  
36 ballot.

37 [6.] 7. The secretary of state shall promulgate rules that specify uniform  
38 standards for ballot layout for each electronic or computerized ballot counting  
39 system approved under the provisions of section 115.225 so that the ballot used  
40 with any counting system is, where possible, consistent with the intent of this  
41 section. Nothing in this section shall be construed to require the format specified  
42 in this section if it does not meet the requirements of the ballot counting system  
43 used by the election authority.

44 [7.] 8. Any rule or portion of a rule, as that term is defined in section  
45 536.010, that is created under the authority delegated in this section shall  
46 become effective only if it complies with and is subject to all of the provisions of  
47 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are  
48 nonseverable and if any of the powers vested with the general assembly pursuant  
49 to chapter 536 to review, to delay the effective date or to disapprove and annul  
50 a rule are subsequently held unconstitutional, then the grant of rulemaking  
51 authority and any rule proposed or adopted after August 28, 2002, shall be  
52 invalid and void.

115.287. 1. Upon receipt of a signed application for an absentee ballot  
2 and if satisfied the applicant is entitled to vote by absentee ballot, the election  
3 authority shall, within three working days after receiving the application, or if  
4 absentee ballots are not available at the time the application is received, within  
5 five working days after they become available, deliver to the voter an absentee  
6 ballot, ballot envelope and such instructions as are necessary for the applicant  
7 to vote. Delivery shall be made to the voter personally in the office of the election  
8 authority or by bipartisan teams appointed by the election authority, or by first  
9 class, registered, or certified mail at the discretion of the election authority, or in

10 the case of a covered voter as defined in section 115.902, the method of  
11 transmission prescribed in section 115.914. Where the election authority is a  
12 county clerk, the members of bipartisan teams representing the political party  
13 other than that of county clerk shall be selected from a list of persons submitted  
14 to the county clerk by the county chairman of that party. If no list is provided by  
15 the time that absentee ballots are to be made available, the county clerk may  
16 select a person or persons from lists provided in accordance with section 115.087.  
17 If the election authority is not satisfied that any applicant is entitled to vote by  
18 absentee ballot, it shall not deliver an absentee ballot to the applicant. Within  
19 three working days of receiving such an application, the election authority shall  
20 notify the applicant and state the reason he or she is not entitled to vote by  
21 absentee ballot. The applicant may file a complaint with the elections division  
22 of the secretary of state's office under and pursuant to section 115.219.

23       2. If, after 5:00 p.m. on the second Wednesday before an election, any  
24 voter from the jurisdiction has become hospitalized, becomes confined due to  
25 illness or injury, or is confined in an intermediate care facility, residential care  
26 facility, or skilled nursing facility, as such terms are defined in section 198.006,  
27 in the county in which the jurisdiction is located or in the jurisdiction of an  
28 adjacent election authority within the same county, the election authority shall  
29 appoint a team to deliver, witness the signing of and return the voter's  
30 application and deliver, witness the voting of and return the voter's absentee  
31 ballot. In counties with a charter form of government and in cities not within a  
32 county, and in each city which has over three hundred thousand inhabitants, and  
33 is situated in more than one county, if the election authority receives ten or more  
34 applications **from such voters** for absentee ballots from the same address it  
35 may appoint a team to deliver and witness the voting and return of absentee  
36 ballots by voters residing at that address[, except when such addresses are for an  
37 apartment building or other structure wherein individual living units are located,  
38 each of which has its own separate cooking facilities]. Each team appointed  
39 pursuant to this subsection shall consist of two registered voters, one from each  
40 major political party. Both members of any team appointed pursuant to this  
41 subsection shall be present during the delivery, signing or voting and return of  
42 any application or absentee ballot signed or voted pursuant to this subsection.

43       3. On the mailing and ballot envelopes for each covered voter, the election  
44 authority shall stamp prominently in black the words "FEDERAL BALLOT,  
45 STATE OF MISSOURI" and "U.S. Postage Paid, 39 U.S.C. Section 3406".

46 4. No information which encourages a vote for or against a candidate or  
47 issue shall be provided to any voter with an absentee ballot.

115.497. 1. As soon as practicable after each election, the election  
2 authority shall convene a verification board to verify the count and certify the  
3 results of the election.

4 **2. Prior to the certification of the election results, the election**  
5 **authority shall randomly select not less than five percent of all election**  
6 **precincts through the use of a random drawing, in order to conduct a**  
7 **manual recount of selected contested races and ballot issues in the**  
8 **selected precincts. The secretary of state shall promulgate rules setting**  
9 **forth the manner in which the randomly selected precincts shall be**  
10 **conducted. Any rule or portion of a rule, as that term is defined in**  
11 **section 536.010 that is created under the authority delegated in this**  
12 **section shall become effective only if it complies with and is subject to**  
13 **all of the provisions of chapter 536, and, if applicable, section**  
14 **536.028. This section and chapter 536 are nonseverable and if any of**  
15 **the powers vested with the general assembly pursuant to chapter 536,**  
16 **to review, to delay the effective date, or to disapprove and annul a rule**  
17 **are subsequently held unconstitutional, then the grant of rulemaking**  
18 **authority and any rule proposed or adopted after August 28, 2019, shall**  
19 **be invalid and void.**

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