

FIRST REGULAR SESSION

# SENATE BILL NO. 205

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOFFER.

Read 1st time February 1, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

0971S.02I

## AN ACT

To repeal sections 115.275, 115.291, and 115.293, RSMo, and to enact in lieu thereof seven new sections relating to advance voting.

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

Section A. Sections 115.275, 115.291, and 115.293, RSMo, are repealed  
2 and seven new sections enacted in lieu thereof, to be known as sections 115.275,  
3 115.276, 115.280, 115.282, 115.288, 115.291, and 115.293, to read as follows:

115.275. As used in sections 115.275 to 115.304, unless the context clearly  
2 indicates otherwise, the following terms shall mean:

3 (1) "Absentee ballot", any of the ballots a person is authorized to cast  
4 away from a polling place pursuant to the provisions of sections 115.275 to  
5 115.304, **but not including the advance ballots a person is authorized to**  
6 **cast in accordance with section 115.276;**

7 (2) "Advance ballot", any of the ballots a person is authorized to  
8 **cast in accordance with section 115.276;**

9 (3) "Interstate former resident", a former resident and registered voter in  
10 this state who moves from Missouri to another state after the deadline to register  
11 to vote in any presidential election in the new state and who otherwise possesses  
12 the qualifications to register and vote in such state;

13 [(3)] (4) "Intrastate new resident", a registered voter of this state who  
14 moves from one election authority's jurisdiction in the state to another election  
15 authority's jurisdiction in the state after the last day authorized in this chapter  
16 to register to vote in an election and otherwise possesses the qualifications to  
17 vote;

18 [(4)] (5) "New resident", a person who moves to this state after the last

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

19 date authorized in this chapter to register to vote in any presidential election;

20 ~~[(5)]~~ (6) "Overseas voter" includes:

21 (a) An absent uniformed services voter who, by reason of active duty or  
22 service is absent from the United States on the date of the election involved;

23 (b) A person who resides outside the United States and is qualified to vote  
24 in the last place in which the person was domiciled before leaving the United  
25 States; or

26 (c) A person who resides outside the United States and (but for such  
27 residence) would be qualified to vote in the last place in which the person was  
28 domiciled before leaving the United States;

29 ~~[(6)]~~ (7) "Persons in federal service" includes:

30 (a) Members of the armed forces of the United States, while in active  
31 service, and their spouses and dependents;

32 (b) Active members of the merchant marine of the United States and their  
33 spouses and dependents;

34 (c) Civilian employees of the United States government working outside  
35 the boundaries of the United States, and their spouses and dependents;

36 (d) Active members of religious or welfare organizations assisting  
37 servicemen, and their spouses and dependents;

38 (e) Persons who have been honorably discharged from the armed forces  
39 or who have terminated their service or employment in any group mentioned in  
40 this section within sixty days of an election, and their spouses and dependents.

**115.276. 1. Any registered voter of this state may vote by  
2 advance ballot in primary and general elections in person at the  
3 location of the election authority or by mail. The advance voting  
4 period shall begin the third Wednesday prior to the primary and  
5 general elections.**

**6 2. All election authorities shall conduct advance voting at the  
7 location of the election authority until the close of regular business  
8 hours on the day of the election.**

**9 3. All advance ballots mailed to the election authority shall not  
10 be accepted or counted unless postmarked at least four days prior to  
11 the election.**

**12 4. The hours for advance voting shall be regular business hours  
13 as required by section 115.057, and shall include Saturday until 12:00  
14 p.m. Regular business hours shall not begin earlier than 7:00 a.m. nor**

15 shall they extend beyond 7:00 p.m.

16           5. Except as otherwise required by this chapter, procedures for  
17 casting an advance ballot in person shall be the same as the procedures  
18 contained in sections 115.407 to 115.445.

19           6. Procedures for counting advance ballots shall be the same as  
20 the procedures contained in sections 115.447 to 115.525.

21           7. The election judge shall not allow any person who has voted  
22 an advance ballot in the election to vote a provisional ballot or vote at  
23 the polls on election day. If it is determined that any voter submitted  
24 an advance ballot and voted a provisional ballot or voted at the polls  
25 on election day:

26           (1) Such person, having voted more than once, is guilty of a class  
27 one election offense pursuant to subdivision (2) of section 115.631;

28           (2) The election authority shall certify that fact and the name of  
29 the voter to the verification board. Such certificate shall be included  
30 with the abstracts drawn by the verification board.

31           8. This section shall become effective January 1, 2012.

32           9. All costs associated with the implementation of advance voting  
33 as authorized by this section shall be paid from the general revenue of  
34 the state of Missouri.

115.280. 1. For advance ballots that are to be mailed to the voter,  
2 an application for an advance ballot may be made by the applicant in  
3 person, or by mail, or for the applicant, in person, by his or her  
4 guardian or a relative within the second degree by consanguinity or  
5 affinity. The election authority shall accept applications by facsimile  
6 transmission within the limits of its telecommunications capacity.

7           2. Each application shall be made to the election authority of the  
8 jurisdiction in which the person is or would be registered no earlier  
9 than the day after the election immediately preceding the election for  
10 which the advance ballot is requested and not later than the fourth  
11 Tuesday prior to the election. Each application shall be in writing and  
12 shall state the applicant's name, address at which he or she is or would  
13 be registered, and the address to which the ballot is to be mailed. Each  
14 application to vote in a primary election shall also state which ballot  
15 the applicant wishes to receive. If any application fails to designate a  
16 ballot, the election authority shall, within three working days after  
17 receiving the application, notify the applicant by mail that it will be

18 unable to deliver an advance ballot until the applicant designates  
19 which political party ballot he or she wishes to receive. If the  
20 applicant does not respond to the request for political party  
21 designation, the election authority is authorized to provide the voter  
22 with that part of the ballot for which no political party designation is  
23 required.

24 3. The election authority shall mail all advance ballots to  
25 applicants who have requested that the ballots be mailed to them no  
26 later than the third Tuesday prior to the election.

27 4. Each application for an advance ballot shall be signed by the  
28 applicant or, if the application is made by a guardian or relative  
29 pursuant to this section, the application shall be signed by the  
30 guardian or relative, who shall note on the application his or her  
31 relationship to the applicant. If an applicant, guardian or relative is  
32 blind, unable to read or write the English language or physically  
33 incapable of signing the application, he or she shall sign by mark,  
34 witnessed by the signature of an election official or person of his or her  
35 own choosing. Any person who knowingly makes, delivers or mails a  
36 fraudulent advance ballot application shall be guilty of a class one  
37 election offense.

115.282. 1. Not later than the sixth Tuesday prior to each  
2 primary and general election, or within fourteen days after candidates'  
3 names or questions are certified for such elections pursuant to section  
4 115.125, the election authority shall cause to have printed and made  
5 available a sufficient quantity of advance ballots and ballot envelopes.

6 2. All absentee ballots for an election shall be in the same form  
7 as the official ballots for the election, except that in lieu of the words  
8 "Official Ballot" at the top of the ballot, the words "Official Advance  
9 Ballot" shall appear.

115.288. 1. Upon receipt of a signed application for an advance  
2 ballot and if satisfied the applicant is entitled to vote by advance  
3 ballot, the election authority shall, within three working days after  
4 receiving the application, deliver to the voter an advance ballot, ballot  
5 envelope, and such instructions as are necessary for the applicant to  
6 vote. Delivery shall be made to the voter by first class, registered, or  
7 certified mail at the discretion of the election authority. If the election  
8 authority is not satisfied that any applicant is entitled to vote by

9 **advance ballot, it shall not deliver an advance ballot to the**  
10 **applicant. Within three working days of receiving such an application,**  
11 **the election authority shall notify the applicant and state the reason he**  
12 **or she is not entitled to vote by advance ballot.**

13 **2. No information which encourages a vote for or against a**  
14 **candidate or issue shall be provided to any voter with an advance**  
15 **ballot.**

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

18 **2. Except as provided in subsection 4 of this section, each absentee ballot**  
19 **shall be returned to the election authority in the ballot envelope and shall only**  
20 **be returned by the voter in person, or in person by a relative of the voter who is**  
21 **within the second degree of consanguinity or affinity, by mail or registered carrier**  
22 **or by a team of deputy election authorities; except that persons in federal service,**  
23 **when sent from a location determined by the secretary of state to be inaccessible**  
24 **on election day, shall be allowed to return their absentee ballots cast by use of**  
25 **facsimile transmission or under a program approved by the Department of**  
26 **Defense for electronic transmission of election materials.**

27 **3. In cases of an emergency declared by the President of the United States**  
28 **or the governor of this state where the conduct of an election may be affected, the**  
29 **secretary of state may provide for the delivery and return of absentee ballots by**

30 use of a facsimile transmission device or system. Any rule promulgated pursuant  
31 to this subsection shall apply to a class or classes of voters as provided for by the  
32 secretary of state.

33 4. No election authority shall refuse to accept and process any otherwise  
34 valid marked absentee ballot submitted in any manner by an absent uniformed  
35 services voter or overseas voter solely on the basis of restrictions on envelope  
36 type.

37 5. As provided in the Military and Overseas Voter Empowerment Act, the  
38 secretary of state shall, in coordination with local election authorities, develop a  
39 free access system by which an absent uniformed services voter or overseas voter  
40 may determine whether the voter's absentee ballot has been received by the  
41 appropriate election authority.

115.293. 1. All proper votes on each absentee **or advance** ballot received  
2 by an election authority at or before the time fixed by law for the closing of the  
3 polls on election day shall be counted. No votes on any absentee **or advance**  
4 ballot received by an election authority after the time fixed by law for the closing  
5 of the polls on election day shall be counted.

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

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