

MAINE STATE LEGISLATURE

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EIGHTIETH LEGISLATURE

HOUSE

NO. 1

House of Representatives, January 6, 1921.

Referred to Committee on Judiciary and sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Viles of Augusta.

STATE OF MAINE

**IN THE YEAR OF OUR LORD ONE THOUSAND
NINE HUNDRED AND TWENTY-ONE**

AN ACT Additional to and Amendatory of Chapter Seven of
the Revised Statutes Relating to Elections.

Be it enacted by the People of the State of Maine, as follows:

Chapter seven of the revised statutes is hereby amended
2 by adding thereto the following sections:

Sect. 133. Definition of Absentee Voter. An Absentee
2 Voter is hereby defined to be any person who is a duly
3 qualified registered voter, and in respect to any primary
4 election duly enrolled as a member of the political party
5 in the primary of which he proposes to vote, but who
6 through absence from the city or town in which he is en-
7 titled to vote, is unable to cast his ballot at the polling place

8 where he is entitled to vote, at any city election, at any
9 primary election held pursuant to sections one, twenty-
10 three and twenty-four of chapter six of the revised stat-
11 utes of Maine, or at any general or special state election
12 as the term state election is defined in section one of chap-
13 ter seven of the revised statutes of Maine, including also
14 elections for the choice of electors of president and vice-
15 president of the United States, elections held in accord-
16 ance with the initiative or referendum provisions of the
17 constitution of Maine, and elections to vote upon amend-
18 ments to the constitution of Maine.

Sect. 134. Thirty days at least, when practicable, prior
2 to any election at which absentee voting is authorized, and
3 in other cases as early as may be practicable, the secretary
4 of state, or in case of city elections the respective city clerks,
5 shall prepare, in such quantities as the official preparing
6 same may deem necessary, the following papers:

(a) Official absent voting ballots similar in all respects
2 to the official ballots to be used at such election, except that
3 the words, Official Absent Voting Ballot, shall be printed
4 conspicuously on the back and outside thereof.

(b) Blank forms of application for such ballots worded
2 as follows, but varying the bracketed word (state) so as
3 to properly designate the election then next to be held, and
4 omitting the bracketed clause concerning enrolment in elec-
5 tions other than primary:

I, _____, hereby apply for an official absent voting bal-
2 lot. I am a legal resident of the city or town of _____, in

3 the county of _____, state of Maine. I am a duly quali-
 4 fied and registered voter, and am, as I believe, entitled to
 5 vote at the next (state) _____ election, at precinct _____,
 6 ward _____, in the city or town of _____, in the county
 7 of _____ and state of Maine.

(I have conformed to all the requirements of the laws of
 2 Maine relative to enrolment and am entitled to vote for the
 3 nomination of candidates of the _____ party.)

My address, including street and number if any, on April
 2 first of the present year, was _____, and is now _____.

(Signature)

We, the undersigned, a majority of the officials having
 2 charge of the registration of voters of the city or town
 3 of _____, hereby certify that the above signature, to the
 4 best of our knowledge and belief, appears to be genuine,
 5 and that we believe the facts stated in above application
 6 to be true.

(Signatures)

(c) Envelopes of sufficient size to contain the ballots
 2 specified in clause (a) bearing on their reverse the following
 3 affidavit:

4 State of _____ ss.

5 County of _____

I, _____, do solemnly swear that I am a legally reg-
 2 istered voter in the city or town of _____, in the county
 3 of _____, and state of Maine, and entitled to cast within
 4 ballot; that I am unable to cast my ballot on election day
 5 at the polling place where I am entitled to vote because I

3 the attorney general, or in case of city elections such as
4 the respective city clerks shall deem appropriate to carry
5 into effect the purposes of this act.

Sect. 135. The secretary of state shall supply each city
2 and town clerk in the state with as many as he may deem
3 necessary of the papers prepared by him in accordance
4 with the provisions of the preceding section, and even in
5 city elections shall furnish sufficient copies of this act to
6 said clerks.

Sect. 136. The papers mentioned in clauses (b) and (e)
2 of section one hundred thirty-four shall, as soon as they
3 can be prepared be delivered to any person who by mail
4 or otherwise applies therefor to the clerk of the city or
5 town where he is entitled to vote. All other papers de-
6 scribed in said section shall be mailed without unnecessary
7 delay, postage prepaid, by the city or town clerk applied
8 to as aforesaid, to all absentee voters who seasonably file
9 the application set forth in said clause (b), provided said
10 application is duly certified by the proper officials as set
11 forth in the next following section of this act.

Sect. 137. When an application for an official absent vot-
2 ing ballot is received by the clerk of a city or town, he
3 shall forthwith transmit same to the officials charged by
4 law with the registration and enrolment of voters in said
5 city or town. Said officials shall examine same; and, if
6 they believe the signature thereon to be genuine and the
7 statements therein made by the applicant to be true, they
8 shall execute the certificate thereon and return same to

9 said clerk. The city clerk shall cause to be placed on the
10 voting list, opposite the name of each person to whom an
11 official absent voting ballot is mailed or delivered, and prior
12 to the opening of the polls on election day, the letters in
13 capitals A. V. If said officials do not believe said signa-
14 ture to be genuine or said statements made by the applicant
15 to be true, or decline to execute the said certificate, they
16 shall forthwith mail to the purported applicant at his last
17 address as stated on said application written notice to that
18 effect, giving their reasons for so declining. They shall
19 preserve the application until the time set by law for the
20 destruction of ballots cast in the coming election, at which
21 time said application shall also be destroyed. The clerk
22 shall keep lists of the names and addresses, arranged by vot-
23 ing precincts, of all voters filing applications for absent
24 voting ballots, and shall post copies of said lists for public
25 inspection at each polling place.

Sect. 138. A voter who has executed and filed an appli-
2 cation for an official absent voting ballot with the clerk of
3 the city or town in which he is a registered voter may, after
4 his application is certified and he has obtained an official
5 absent voting ballot as provided in the two sections last
6 preceding, vote by mailing said ballot as hereinafter pro-
7 vided or by delivering said ballot in person, to such city
8 or town clerk. He shall mark said ballot in the presence
9 of any official authorized by law to administer oaths, if
10 the marking is done within the state of Maine, and in the
11 presence of any notary public having a seal, if the marking

12 is done outside of the state of Maine; but, in either case,
13 no person other than the voter and the official taking his
14 oath shall be present during the marking and sealing of
15 said ballot. Before marking said ballot, the voter shall ex-
16 hibit it to said official, who shall satisfy himself that it is
17 unmarked, but he shall not allow said official to see how
18 he marked it. Said official shall hold no communication
19 with the voter, nor he with said official, as to how he is to
20 vote. Thereafter the voter shall enclose and seal the bal-
21 lot in the envelope provided for in clause (c) of section
22 one hundred thirty-four. He shall then execute before said
23 official the affidavit on said envelope as set forth in said
24 clause (c), said official shall endorse thereon the certifi-
25 cate provided for in said clause (c) and affix his official
26 seal, if any, and said voter shall enclose and seal the envel-
27 ope with the ballot in the envelope provided for in clause
28 (d) of section one hundred thirty-four, endorse thereon
29 his name, address and voting place, and mail the same with-
30 in the time prescribed in the following section, by registered
31 mail requesting return receipt therefor, postage prepaid, at
32 any post office, or may deliver same in person as above
33 provided.

Sect. 139. All ballots cast under the provisions of the
2 preceding section shall be mailed on or prior to the day of
3 election, or, if delivered in person, shall be delivered at
4 least twenty-four hours before the opening of the polls at
5 the voter's polling place on the day of the election. The
6 postmark, if legible, shall be conclusive evidence of the

7 time and place of mailing. Any clerk, if requested thereto,
8 shall give to any person delivering such ballot in person
9 a receipt therefor setting forth the precise date, hour and
10 minute of the delivery.

Sect. 140. Upon receipt of an envelope purporting to
2 contain an official absent voting ballot, the clerk of the city
3 or town shall attach thereto the application for an official
4 absent voting ballot executed by the voter whose name
5 appears thereon and certified by the registration officials
6 as hereinbefore provided. All such envelopes shall be pre-
7 served unopened. Upon election day before the hour for
8 closing the polls the said clerk shall deliver all envelopes
9 received by him to the election officials in the several voting
10 precincts in which the voters named therein assert the right
11 to vote, together with a list signed by him of the voters'
12 names and addresses as shown upon said envelopes.

Sect. 141. Immediately after the closing of the polls, and
2 after the ballots cast have been removed from the ballot
3 box, the presiding officer in each polling place shall open
4 all envelopes delivered to him under the provisions of the
5 preceding section and shall compare the signatures on the
6 envelopes therein enclosed with the signatures on the
7 applications attached thereto, and shall examine the affi-
8 davits. If the affidavits are duly and properly executed
9 in accordance with the provisions of this act, and if the
10 voters' signatures on the affidavits appear to be made by
11 the same persons who signed the applications, and to be

12 the signatures of duly registered voters who have not voted
13 at the election, he shall make public announcement of the
14 names of the absentee voters, open the envelopes in such
15 manner as not to destroy the affidavits thereon, take out
16 the ballots without unfolding them or permitting them to
17 be opened or examined, and, after checking the names of
18 the absentee voters on the voting list, shall deposit the
19 ballots in the ballot box. If he finds an envelope to bear
20 an affidavit not duly and properly executed as aforesaid,
21 or not signed by the same person who signed the accom-
22 panying application, or if the voter whose name appears
23 thereon is not a registered voter, is not enrolled when
24 enrolment is requisite to the casting of the ballot, or has
25 voted in person, the presiding officer shall not open the
26 envelope, but shall mark across the face thereof "Rejected
27 as defective," "Rejected as not a voter," "Rejected as not
28 enrolled" or, "Voted in person" as the case may be. In
29 event of its appearing from the color of the ballot at a
30 primary election, when said ballot is taken from its en-
31 velope by the said presiding officer, that said ballot is for
32 the nomination of candidates of a party other than that
33 in which the absentee voter is enrolled, said presiding offi-
34 cer, without opening said ballot, shall endorse on the out-
35 side thereof and of the envelope containing same, "Re-
36 jected as not enrolled in the proper party," and shall
37 thereupon replace said ballot in its envelope and reseal said
38 envelope securely. All envelopes, opened or unopened, shall

39 be retained with the ballots cast at the election, and pre-
40 served and destroyed in the manner provided by law for
41 the retention, preservation or destruction of official ballots.
42 The tally sheets in use at elections shall provide in con-
43 venient form for the recording thereon of all envelopes,
44 as well as all accepted or rejected ballots of absentee voters.

Sect. 142. All absent voting ballots shall be subject to
2 challenge when and as cast by any qualified elector of the
3 city or town where said ballot is presented for non-com-
4 pliance with this act, or for any reason disqualifying the
5 person whose ballot is challenged from voting same, and
6 an opportunity shall be given for such challenge by the
7 officer presiding at the polling place, and such officer pre-
8 siding shall note the fact of such challenge upon the voting
9 list used at said polling place. Said presiding officer shall
10 also note the fact of such challenge together with the name
11 of the voter upon the ballot so challenged, witnessed by
12 two election officers representing two different parties. Any
13 failure to comply with the provisions of this section shall
14 be a misdemeanor punishable by a fine not exceeding one
15 thousand dollars or by imprisonment not exceeding two
16 years.

Sect. 143. No ballot transmitted under the provisions of
2 this act shall be rejected for any immaterial addition,
3 omission or irregularity in the preparation or execution of
4 any writing or affidavit required herein. No ballot pre-
5 sented under the provisions hereof shall be counted if the

6 officers charged with the duty of counting the same are
7 cognizant of the fact that the voter has died prior to the
8 opening of the polls on the day of election.

Sect. 144. All envelopes received by clerks of cities and
2 towns after the hour fixed for the closing of the polls on
3 the day of election shall be retained by them unopened
4 until the time set by law for the destruction of ballots cast
5 at said election, at which time the envelopes shall likewise
6 be destroyed, unopened and unexamined.

Sect. 145. Nothing herein contained shall prevent a voter
2 who has undertaken to vote at an election in accordance
3 with the provisions of this act from voting at said election
4 in person. In case such voter shall be present on the day
5 of said election, in the city or town where he is entitled
6 to vote, for so long after the opening or so long before
7 the close of the polls therein as to give him time so to do,
8 he shall go in person to the polling place where he is en-
9 titled to vote and cast his ballot, or offer to cast his ballot,
10 in person. Any such voter who shall wilfully or know-
11 ingly neglect to comply with the provisions of this section
12 shall be deemed guilty of a misdemeanor, and upon con-
13 viction thereof shall be punished by a fine of not more than
14 one hundred dollars or by imprisonment not more than
15 thirty days in jail, or by both such fine and imprisonment.

Sect. 146. The secretary of state shall prepare for the
2 use of election officials, city and town clerks and the offi-
3 cials having charge of the registration of voters in the

4 various cities and towns of the state, such printed infor-
5 mation and instructions, subject to approval by the attor-
6 ney general, as he may deem proper to facilitate the oper-
7 ation of this act. Such printed matter shall be transmitted
8 to said officials prior to each election. The secretary is
9 further authorized to prepare and distribute, subject to like
10 approval, such general information relative to this act as
11 he may deem expedient.

Sect. 147. Whoever, not being entitled to vote under the
2 provisions of this act votes or attempts to vote under the
3 provisions hereof, or whoever, being entitled to vote under
4 the provisions of this act, knowingly votes or attempts to
5 vote in violation of the terms hereof, or whoever being an
6 official entrusted with the execution of this act wilfully
7 or negligently violates any provision thereof, shall be pun-
8 ished by a fine of not more than five hundred dollars and
9 by imprisonment in jail for not over one year.

Sect. 148. This act shall not take effect unless and until
2 the constitution of this state is amended by striking out
3 the word "present" in the fifth and thirty-fourth lines of
4 section five, article four, part first, thereof, or is otherwise
5 amended so as to allow the casting of ballots at elections
6 by voters not present at the polls in person.