

# MAINE STATE LEGISLATURE

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Elections Under Revision 1732  
L.V. 114

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DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA, MAINE 04333

April 19, 1977

Honorable Elizabeth H. Mitchell  
House of Representatives  
State House  
Augusta, Maine

Dear Representative Mitchell:

We are responding to your oral request for our opinion with regard to a question concerning L.D. 176. This proposed legislation would allow conditional voter registration of a person who is within 6 months of his or her 18th birthday and who will be outside of the State during the period at which he or she would otherwise be eligible to register. Your question is:

If such preregistration is allowed, would voters who have completed such preregistration be allowed to mark an absentee ballot before their 18th birthday if they will be 18 years of age before the election day?

The answer to your question is not entirely clear either from L.D. 176 itself or from existing statutes concerning absentee voting. The proposed legislation does not purport to deal with this question. The L.D. does direct that, "The registrar shall maintain a separate list of such persons, with a notation of their birth dates, and shall place their names on the voting list as soon as they have attained 18 years of age." However, there is no provision concerning absentee voting during this period. The existing statutory provisions concerning absentee voting are found in 21 M.R.S.A. §§ 1251, et seq. The statutory procedure for obtaining an absentee ballot includes a provision that the clerk shall deliver the applications for absentee ballots to the registrar and the registrar shall certify whether the applicant is registered and enrolled. If the applicant is not registered and enrolled, the registrar indicates this fact on the face of the application. 21 M.R.S.A. § 1253,4. There is no provision for

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indicating a "conditional registration." Therefore, the proper procedure for handling an application for an absentee ballot and counting that ballot upon receipt in the circumstances which you have described, is not clearly specified by the pertinent statutes.

We suggest that if it is desirable to clarify this situation, some further amendment to the election laws would be in order. Such clarification could be accomplished by amendment of L.D. 176 in the areas of your concern.

Sincerely,

S. KIRK STUDSTRUP  
Assistant Attorney General

SKS:mfe

cc: Representative Richard J. Carey