

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 898

H. P. 731

House of Representatives, February 18, 1981

Referred to the Committee on Election Laws. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Masterton of Cape Elizabeth.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Abolish the Application Procedure in Absentee Balloting.

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

Sec. 1. 21 MRSA § 1252, first ¶, as repealed and replaced by PL 1975, c. 623, § 24-C, is repealed.

Sec. 2. 21 MRSA § 1252, sub-§ 2, as amended by PL 1973, c. 718, is repealed.

Sec. 3. 21 MRSA § 1253, sub-§ 1, as repealed and replaced by PL 1975, c. 623, § 24-D, is repealed.

Sec. 4. 21 MRSA § 1253, sub-§ 1-A, as enacted by PL 1977, c. 210, § 1, is amended to read:

1-A. Requests by voters outside the country. In the case of a voter who is temporarily outside the United States or any territory or jurisdiction thereof, a written request for an absentee ballot from the voter, the voter's spouse, a blood relative of the voter or the voter's former guardian is sufficient.

Sec. 5. 21 MRSA § 1253, sub-§ 2, as last amended by PL 1977, c. 696, § 177, is further amended to read:

2. Request received. On receipt of a ~~completed application or a~~ request for an absentee ballot ~~signed by the applicant~~, the clerk shall send or deliver an absentee ballot and return envelope forthwith to the ~~applicant~~ **applicant person** or to a 3rd person

designated in the ~~application or~~ request. The clerk shall issue to any 3rd person so designated only enough absentee ballots to insure that such a person shall not be in possession at any time of more than 40 absentee ballots for voters in a municipality. Such a 3rd person shall, unless good cause is shown, return an absentee ballot to the clerk's office within the time limits provided in section 1255. ~~The clerk shall include a ballot application to be completed by the person who signed only a written request, unless the written request is sufficient as provided in subsection 1-A~~ The clerk shall type or write in ink the name and the legal address of the person for whom the absentee ballot is intended in the upper left hand section of all return envelopes.

If the clerk receives a duplicate ~~application request~~ from a person from whom the clerk has received a return envelope apparently containing an absentee ballot, the clerk shall not furnish another absentee ballot for such person.

The clerk may issue a 2nd absentee ballot to ~~an applicant a person~~ if the ~~applicant person requests one~~ in person or in writing ~~requests one~~ and:

A. If such ~~applicant person~~ states good cause, including but not limited to loss of, spoiling of or damage to the first absentee ballot; or

B. If an absentee ballot for such ~~applicant person~~ which was furnished to a designated 3rd person is not returned to the clerk's office within 5 business days of the date such ballot was sent or delivered to such 3rd person or by 10 a.m. on the day before election day, whichever is earlier. This paragraph shall not be construed to affect the time for delivery of absentee ballots under section 1255.

Sec. 6. 21 MRSA § 1253, sub-§ 2-A, as amended by PL 1979, c. 322, § 2, is repealed.

Sec. 7. 21 MRSA § 1253, sub-§ 3, as last amended by PL 1977, c. 500, § 2, is further amended to read:

3. **Clerk to list.** The clerk shall keep a list of the persons to whom he furnishes absentee ballots until after election day, or the clerk shall file the ~~applications and~~ requests in alphabetical order. The clerk shall keep a list of the persons who vote in the clerk's office pursuant to subsection 5. The clerk shall submit such list to the registrar for certification before the close of business on the day prior to election day.

The clerk shall keep a list of the 3rd persons, designated in ~~applications or~~ requests, to whom absentee ballots are sent or delivered pursuant to subsection 2 and of the number of absentee ballots sent or delivered to such persons. Such 3rd persons shall not be in possession at any time of more than 40 absentee ballots for voters in a municipality.

Sec. 8. 21 MRSA § 1253, sub-§ 4, as amended by PL 1977, c. 334, § 2, is repealed.

Sec. 9. 21 MRSA § 1253, sub-§ 5, first sentence, as enacted by PL 1975, c. 387, § 4, is amended to read:

A person who wishes to vote by absentee ballot because he will not be present in the municipality or able to vote in person at the voting place on election day may ~~without completing an application~~ vote by absentee ballot before the clerk or deputy clerk of the municipality in the clerk's office during regular business hours.

Sec. 10. 21 MRSA § 1254, sub-§ 5, last sentence is repealed.

Sec. 11. 21 MRSA § 1256, sub-§ 2, as last amended by PL 1977, c. 496, § 28, is further amended to read:

2. Clerk and registrar to examine. ~~He shall compare the signature of the voter on the application, where required, with that on the corresponding return envelope.~~ **He shall, as soon as possible, deliver a completed absentee ballot to the registrar, who shall certify whether the voter is registered, and if necessary, enrolled. He** The registrar shall examine the affidavit on the return envelope and compare it with the signature on the registration card and, if necessary, the enrollment card. If the signatures appear to have been made by the same person and if the affidavit is properly completed, he shall write "OK" and his initials on the return envelope. Otherwise, he shall note any discrepancy on the return envelope.

A. If the signatures do not appear to have been made by the same person, but such discrepancy is apparently the result of the voter's having properly obtained assistance as provided in ~~either section 1253, subsection 2-A, or section 1254, subsection 6, or both~~ then the ~~clerk~~ registrar shall note such discrepancy on the return envelope, but shall also write "O.K." and his initials on the return envelope. **The registrar shall return the envelope to the clerk. The clerk may not open any return envelope.**

Sec. 12. 21 MRSA § 1256, sub-§ 3, as amended by PL 1975, c. 761, § 45, is repealed.

Sec. 13. 21 MRSA § 1256, sub-§ 5, first sentence, as amended by PL 1975, c. 761, § 47, is further amended to read:

On election day, the clerk shall deliver or cause to be delivered the return envelopes prescribed by section 1255 ~~with the applications, where required, attached~~ and the list required by subsection 4 to the warden of the voting district in which the voter is registered, except in those municipalities where the municipal officers have authorized the clerk to process absentee ballots.

Sec. 14. 21 MRSA § 1259, sub-§ 1 is amended to read:

1. Warden to review notes of clerk. As soon as the polls are closed, and the regular ballots removed from the ballot box, the warden shall review the notes of the ~~clerk~~ registrar on each return envelope.

Sec. 15. 21 MRSA § 1259, sub-§ 2, first sentence, as amended by PL 1975, c. 761, § 49, is further amended to read:

If the warden finds that the signatures appear to have been made by the same

person and that the affidavit is properly completed, ~~or if no application was required~~ he shall examine the checklist to determine whether the voter voted in person at the election.

Sec. 16. 21 MRSA § 1259, sub-§ 3, as last amended by PL 1977, c. 496, § 30, is further amended to read:

3. Rejected if incorrect. If the warden does not find that the signatures appear to have been made by the same person, or are otherwise proper, as provided in ~~section 1253, subsection 2-A or section 1254, subsection 6, in cases where an application is required~~ that the affidavit is not properly completed, that the person is not registered, or enrolled where necessary, that the voter has voted in person or that the ballot was received by the clerk after the deadline, he shall not open the envelope. He shall write "Rejected" on it, the reason why and his initials.

Sec. 17. 21 MRSA § 1259-A, sub-§ 1, as amended by PL 1975, c. 761, § 51, is further amended to read:

1. Envelopes and lists retained. The clerk shall retain possession of return envelopes ~~with the applications attached, where required~~ and the list required by section 1256, subsection 4.

Sec. 18. 21 MRSA § 1261, first ¶ is amended to read:

An absentee ballot may not be rejected for any immaterial irregularity in completing the ~~application or~~ affidavit on the return envelope.

Sec. 19. 21 MRSA § 1262, first sentence, as amended by PL 1975, c. 761, § 53, is further amended to read:

As soon as the ballots have been counted, the ~~applications where required~~ absentee ballots, return envelopes, lists required by section 1256 and other election materials shall be repacked in accordance with section 926 and returned to the clerk.

Sec. 20. 21 MRSA § 1263, as enacted by PL 1977, c. 412, § 1, is amended to read:

§ 1263. Applications and envelopes as public records

Absentee ballot ~~applications and absentee ballot~~ return envelopes are public records until the close of voting on election day. After that time, such ~~applications and envelopes~~ applications and envelopes are not public records and may be inspected only in accordance with this Title.

Sec. 21. 21 MRSA § 1579, sub-§ 15, as enacted by PL 1977, c. 696, § 179, is amended to read:

15. Return of absentee ballots. A 3rd person, designated in ~~an application or a~~ request for an absentee ballot and to whom the clerk of a municipality furnishes

an absentee ballot in accordance with that ~~application or~~ request, who, without good cause, fails to return that absentee ballot to the clerk's office within the time limit provided in section 1255.

Sec. 22. 21 MRSA § 1580, sub-§ 1, as repealed and replaced by PL 1977, c. 496, § 38-A, is amended to read:

1. Unreasonable delay. A person who knowingly causes a delay in the registration or enrollment of another, or who knowingly causes a delay in the delivery of an absentee ballot ~~or absentee ballot application~~, with the intent to prevent a person from voting or to render his vote ineffective;

Sec. 23. 21 MRSA § 1580, sub-§ 2, as repealed and replaced by PL 1977, c. 496, § 38-A, is amended to read:

2. Forging an absentee ballot or return envelope. A person who forges the name of another on an absentee ballot or return envelope ~~or the application therefor~~;

STATEMENT OF FACT

This bill abolishes duplicative procedures in absentee balloting. It eliminates the 2-step process of first obtaining a signed application, having it delivered to the clerk, and then obtaining, delivering to the applicant and to the clerk, the absentee ballot. An affidavit attesting the inability of the applicant to vote in person on election day already appears on the absentee ballot envelope, with the applicant's signature and the signature of the attending justice of the peace or notary public. This bill eliminates the application procedure altogether and requires that the registrar check the signature on the absentee ballot envelope against the signature on the registration, and if necessary, the enrollment card. The bill saves time and energy for the 3rd party involved in absentee balloting and needless paperwork for clerks and registrars.