

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1486

S.P. 492

In Senate, March 31, 2003

An Act To Comply with Federal Election Laws Including the Help America Vote Act of 2002

Submitted by the Secretary of State pursuant to Joint Rule 204.
Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator GAGNON of Kennebec.

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

4 **Sec. 1. 21-A MRSA §1, sub-§2-A**, as enacted by PL 1985, c. 614,
§2, is repealed.

6 **Sec. 2. 21-A MRSA §1, sub-§23-A** is enacted to read:

8 23-A. Member of the merchant marine. "Member of the
10 merchant marine" means a person, other than a member of a
uniformed service or a person employed, enrolled or maintained on
12 the Great Lakes or the inland waterways, who is:

14 A. Employed as an officer or crew member of a vessel
documented under the laws of the United States, a vessel
16 owned by the United States or a vessel of foreign-flag
registry under charter to or control of the United States; or

18 B. Enrolled with the United States for employment or
training for employment, or maintained by the United States
20 for emergency relief service, as an officer or crew member
22 of a vessel described in paragraph A.

24 **Sec. 3. 21-A MRSA §1, sub-§27-B** is enacted to read:

26 27-B. Overseas voter. "Overseas voter" means:

28 A. A person who resides outside the United States and who
was qualified to vote in the last place in which the person
30 was domiciled in the State before leaving the United States;
or

32 B. A person who resides outside the United States and,
except for such residence, would be qualified to vote in the
34 last place in which the person was domiciled in the State
before leaving the United States.

36 **Sec. 4. 21-A MRSA §1, sub-§§46-A and 46-B** are enacted to read:

38 46-A. Uniformed service. "Uniformed service" means the
40 United States Army, Navy, Air Force, Marine Corps and Coast
Guard, the commissioned corps of the United States Public Health
42 Service and the commissioned corps of the National Oceanic and
Atmospheric Administration.

44 46-B. Uniformed service voter. "Uniformed service voter"
46 means:

48 A. A member of a uniformed service on active duty who, by
reason of active duty or service, is absent from the place

2 of residence in the State where the member is otherwise
3 qualified to vote;

4 B. A member of the merchant marine who, by reason of
5 service in the merchant marine, is absent from the place of
6 residence where the member is otherwise qualified to vote; or

7 C. A spouse or dependent of a member referred to in
8 paragraph A or B who, by reason of the active duty or
9 service of the member, is absent from the place of residence
10 where the spouse or dependent is otherwise qualified to vote.

11 **Sec. 5. 21-A MRSA §112, sub-§§4, 7 and 8,** as amended by PL 1993,
12 c. 695, §3, are further amended to read:

13 **4. Separate residence.** The place where a person's family
14 resides is presumed to be the person's place of residence, but a
15 person may acquire a separate residence if the person takes
16 another abode with the intention of remaining there. This
17 subsection does not apply to ~~armed-forces-personnel~~ uniformed
18 service voters, students and others covered by subsection 7.

19 **7. Uniformed service voters, students, institutional**
20 **patients, Indians.** A person does not gain or lose a residence
21 solely because of the person's presence or absence while employed
22 in the ~~Armed-Forces~~ uniformed service or the merchant marine of
23 the United States ~~or-of-this-State~~, while a student in any
24 institution of learning, while kept in any institution at public
25 expense or while residing upon any Indian or military
26 reservations. This subsection may not be construed to prevent a
27 student at any institution of learning from qualifying as a voter
28 in the municipality where the student resides while attending
29 that institution.

30 **8. Voting residence retained.** A person who has gained a
31 voting residence in a municipality retains it, if the person so
32 desires, when the person becomes a patient at a federal
33 institution or an employee of a federal agency where the person
34 is required to reside on land ceded to the Federal Government by
35 the State. This subsection applies to a member of the ~~Armed~~
36 ~~Forces~~ uniformed service, merchant marine or the National Guard
37 who is required to be in a place other than that in which the
38 person has gained a voting residence.

39 **Sec. 6. 21-A MRSA §112, sub-§§10 and 11,** as amended by PL 1993,
40 c. 695, §4, are further amended to read:

41 **10. Becoming 18 on federal property.** A person who becomes
42 18 years of age while residing on federal property as a patient
43 at a federal institution or an employee of a federal agency, or
44

2 while in the ~~Armed-Forces~~ uniformed service, is considered to
4 have gained a voting residence in the municipality in which the
person resided at the time the person became such a patient,
employee or member of the ~~Armed-Forces~~ uniformed service.

6 **11. Spouse of member of uniformed service or merchant**
7 **marine.** ~~A spouse of a member of the Armed-Forces on active-duty~~
8 ~~person~~ may have the same voting residence as that person's spouse
9 ~~who is a member of the uniformed service or merchant marine.~~ A
10 member of the ~~Armed-Forces~~ uniformed service or merchant marine
11 on active duty, whose spouse has a place of residence in this
12 State, may establish a residence in the place of residence of the
13 spouse by filing an affidavit with the registrar declaring an
14 intention to reside in that place upon severance from the ~~Armed~~
~~Forces~~ uniformed service or merchant marine.

16 **Sec. 7. 21-A MRSA §122, first ¶**, as enacted by PL 1985, c. 161,
18 §6, is amended to read:

20 A person may register as a voter by appearing before the
21 registrar, proving that he the person is qualified under section
22 111, subsections 1 to 3, and filing an application provided by
23 the registrar containing the information required by section ~~171~~
24 172. Township residents may register as provided in section 156.

26 **Sec. 8. 21-A MRSA §152, sub-§1**, as amended by PL 1997, c. 436,
28 §34, is further amended to read:

30 **1. Application.** In addition to the procedure provided by
31 section 122, a person may register to vote or enroll in a
32 political party, or both, by completing an application that is
33 designed by the Secretary of State ~~and contains the following~~
34 ~~information.~~ The application must include, but is not limited
to:

36 A. First name, middle name or initial and last name, or
37 first name or initial, middle name and last name;

38 B. Residence address, including street, street number,
40 apartment number, town and zip code;

42 C. Mailing address;

44 D. Date of birth;

46 E. Most recent prior residence where registered to vote,
47 including the name under which registered, if changed, legal
48 address and mailing address;

2 H. Notification that failure to complete the entire
application may prevent registration;

4 ~~I. -- Sworn statement that the applicant is a United States
citizen and that all information is correct;~~

6 J. Date of application;

8 K. Signature of applicant; and

10 L. Choice of political party if the applicant desires to
12 enroll in a political party or an indication that the
applicant chose not to enroll in a party.;

14 M. A place for the person's current, valid Maine driver's
16 license number, if applicable; or, if the applicant has no
18 driver's license number, the last 4 digits of the person's
social security number, if applicable; or, if the applicant
20 has neither number, a place to put "none" or "not
applicable"; and

22 N. A place for the applicant to respond to the questions
concerning the voter's qualifications as required by the
24 federal Help America Vote Act of 2002, PL 107-252.

26 **Sec. 9. 21-A MRSA §152, sub-§5**, as amended by PL 2001, c. 310,
§11, is further amended to read:

28 **5. Design of application.** The Secretary of State shall
30 design the application ~~so that it may be mailed as a postcard.~~
The Secretary of State may design an application that can be
32 completed electronically and that substantially meets the
requirements of this section.

34 **Sec. 10. 21-A MRSA §154, sub-§1**, as amended by PL 1997, c.
36 436, §36, is further amended to read:

38 **1. Application.** A person qualified to register under
section 111, subsections 1 and 2 and who resides outside the
40 United States and does not maintain a fixed and principal home or
other address in the State may register at the last residence
42 address immediately before leaving the United States and enroll
by filing a federal postcard application or an application
44 designed by the Secretary of State ~~containing the following
information.~~ The state application must include, but is not
46 limited to:

48 A. First name, middle name or initial and last name, or
first name or initial, middle name and last name;

50

- 2 B. Last residence address immediately before departing from
the United States, including street, street number,
4 apartment number, town and zip code;
- 6 C. Mailing address;
- 8 D. Date of birth;
- 10 H. Notification that failure to complete the entire
application may prevent registration;
- 12 J. Signature of applicant;
- 14 ~~K. Sworn statement that the applicant is a United States
16 citizen and that all information is correct;~~
- 18 L. Date of application; and
- 20 N. Choice of political party if the registrant wishes to
enroll in a political party or an indication that the
22 applicant chose not to enroll in a party;
- 24 O. A place for the person's current, valid Maine driver's
license number, if applicable; or, if the applicant has no
26 driver's license number, the last 4 digits of the person's
social security number, if applicable; or, if the applicant
28 has neither number, a place to put "none" or "not
applicable"; and
- 30 P. A place for the applicant to respond to the questions
concerning the voter's qualifications as required by the
32 federal Help America Vote Act of 2002, PL 107-252.

34 **Sec. 11. 21-A MRSA §155, first ¶**, as amended by PL 1991, c.
399, §1, is further amended to read:

36
38 The registrar shall conditionally accept the registration
and enrollment of any person who is between 17 years of age and
will attain 18 years of age by the next election, and who is
40 otherwise qualified to be a voter. The registrar shall maintain
a separate list of these persons, with a notation of their
42 birthdates, and shall place their names on the voting list as
soon as they have attained 18 years of age.

44
46 **Sec. 12. 21-A MRSA §171**, as amended by PL 1997, c. 436, §40,
is repealed.

48 **Sec. 13. 21-A MRSA §172** is enacted to read:

50 **§172. Voter registration file**

2 The registrar shall prepare and keep a voter registration
3 file containing the voter registration documents for each voter
4 on the voting list, arranged alphabetically by the last name of
5 each voter. The file must contain an original, signed voter
6 registration application for each voter, with all associated
7 applications containing changes of name, address or enrollment
8 and any documentation concerning these applications or the
9 qualifications for these voters. When the name of a voter is
10 removed from the voting list, the registrar shall indicate on the
11 voter's registration documents the date that the voter's name was
12 removed from the list and retain the documents for 5 years,
13 either in the same file, or in a separate file.

14 **Sec. 14. 21-A MRSA §181, sub-§1, ¶B**, as amended by PL 1995, c.
15 418, Pt. A, §39, is further amended to read:

16 B. Outside agencies that include the following:

17 (1) The Department of Human Services, Bureau of Family
18 Independence, Bureau of Health and Bureau of
19 Rehabilitation;

20 (2) The ~~armed--forces~~ uniformed service recruitment
21 offices;

22 (3) The public high schools; and

23 (4) The offices of municipal clerks and registrars.

24 **Sec. 15. 21-A MRSA c. 3, sub-c. 8** is enacted to read:

25 SUBCHAPTER 8

26 HELP AMERICA VOTE ACT

27 §221. State coordinator

28 The Secretary of State is the coordinator of the State's
29 responsibilities under the federal Help America Vote Act of 2002,
30 PL 107-252.

31 **Sec. 16. 21-A MRSA §629, sub-§1, ¶A**, as amended by PL 1985, c.
32 315, is further amended to read:

33 A. In a general election, the municipal officers in each
34 municipality ~~of 4,000 or more population must provide at~~
35 ~~least one voting booth for each 150, or fraction exceeding~~
36 ~~1/2 of that number, of the voters qualified to vote at each~~
37 ~~voting place. In a municipality of less than 4,000~~
38 ~~population, the municipal officers must provide at least one~~
39 voting place. In a municipality of less than 4,000
40 population, the municipal officers must provide at least one

2 voting booth for each 200, or fraction exceeding 1/2 of that
3 number, of the ~~voters~~ qualified ~~to--vote~~ voters in each
4 voting place. For purposes of this paragraph, "qualified
5 voters" does not include voters who have been designated as
6 inactive as a result of voter list maintenance procedures.

7 **Sec. 17. 21-A MRSA §629, sub-§1, ¶A-1** is enacted to read:

8 A-1. In every election, the municipal officers shall
9 provide at least one voting booth in each voting place that
10 is accessible for persons with disabilities. The accessible
11 voting booth may be used to meet the minimum requirements
12 under paragraph A.

13 **Sec. 18. 21-A MRSA §752, sub-§1**, as amended by PL 1997, c.
14 436, §106, is further amended to read:

15 **1. Absentee ballots to be identical.** Absentee ballots must
16 be identical to the regular ballots used at an election, except
17 as provided in paragraph A for ~~members-of-the-Armed-Forces-or~~
18 ~~citizens-outside-the-United-States~~ uniformed service voters or
19 overseas voters.

20 **A.** At least 3 months before the election to which they
21 pertain, the Secretary of State shall furnish each
22 municipality with a reasonable number of blank write-in
23 absentee ballots for use by ~~members-of-the-Armed-Forces-and~~
24 ~~citizens-outside-the-United-States~~ uniformed service voters
25 or overseas voters who have met the qualifications in
26 section 751. These ballots must be similar to regular
27 ballots, except that no candidate names may be printed. The
28 Secretary of State shall prepare a ballot listing all
29 offices to be selected with a space after each office to
30 write in the voter's preference. ~~The following instructions~~
31 ~~must be printed in bold type at the top of the ballot:--YOU~~
32 ~~MAY VOTE FOR A PERSON BY WRITING IN THAT PERSON'S NAME AND~~
33 ~~MUNICIPALITY--OF--RESIDENCE--IN--THE--BLANK--SPACE--UNDER--THE~~
34 ~~PROPER OFFICE.~~ The Secretary of State shall design the form
35 of the ballot, including any instructions to the voters in
36 marking the ballot.

37 **Sec. 19. 21-A MRSA §752, sub-§4**, as enacted by PL 1985, c.
38 161, §6, is amended to read:

39 **4. Delivery of materials; insufficient quantity.** The
40 Secretary of State shall send the voting materials to the clerk
41 of each municipality. If the clerk believes that a larger number
42 should be furnished, he the clerk must notify the Secretary of
43 State who shall determine whether the additional materials are
44 needed and, if so, shall furnish them as promptly as possible.

2 **Sec. 20. 21-A MRSA §752-A**, as enacted by PL 2001, c. 516,
§16, is amended to read:

4 **§752-A. Federal absentee ballot**

6 The federal write-in absentee ballot may be used in primary
8 and general and special elections for state and federal offices
by ~~members of the United States Armed Forces and citizens outside~~
10 ~~the United States~~ uniformed service voters or overseas voters who
are qualified pursuant to section 751.

12 **Sec. 21. 21-A MRSA §753-B, sub-§6, ¶¶A and B**, as enacted by PL
14 2001, c. 310, §54, are amended to read:

16 A. The list of absentee voters must include each voter's
name, residence address, voting district and party
18 affiliation; the date and manner by which the ballot was
requested, ~~the date and manner by which the ballot was~~
20 issued and received; a notation of whether the application
and the ballot were accepted or rejected; and a place for
22 the registrar to certify the voter registration status of
the absentee voters ~~who voted, without application, in the~~
24 presence of the clerk. The clerk must also indicate on the
list when the absentee voter is a uniformed service voter or
26 overseas voter.

28 B. The clerk shall submit this list of absentee voters to
the registrar for certification of the registration status
30 and, when applicable, the enrollment status of the voters
~~who voted in the presence of the clerk. The clerk shall~~
32 ~~also submit all absentee ballot applications to the~~
~~registrar for certification of the registration status and,~~
34 ~~when applicable, the enrollment status of the voter named on~~
~~each application.~~ The registrar shall certify the list and
36 applications either before or as soon as possible after the
ballot is issued to the voter. The certifications must be
38 completed before the absentee ballots may be processed and
cast on election day.

40 **Sec. 22. 21-A MRSA §753-B, sub-§6, ¶D** is enacted to read:

42 D. Within 20 days after each election, the clerk shall send
44 a report to the Secretary of State stating the total number
of absentee ballots issued to absentee voters in the
46 municipality for that election. The report must further
identify the number of ballots that were issued to uniformed
48 service voters and overseas voters, respectively. For each
category of absentee voters, the report must include the

2 number of ballots that were returned by the voters and were
3 processed and cast in the election.

4 **Sec. 23. 21-A MRSA §776**, as enacted by PL 1985, c. 161, §6,
5 is amended to read:

6 **§776. Applicability of provisions**

7 This Article ~~article~~ applies to ~~members-of-the-Armed-Forces~~
8 uniformed service voters or overseas voters who are covered by
9 the federal Uniformed and Overseas Citizens Absentee Voting Act,
10 42 United States Code, Section 1973ff (2001). The Secretary of
11 State is responsible for carrying out the State's duties under
12 that Act.

13 **Sec. 24. 21-A MRSA §777**, as amended by PL 1993, c. 695, §32,
14 is repealed.

15 **Sec. 25. 21-A MRSA §777-A** is enacted to read:

16 **§777-A. Registration and enrollment**

17 Uniformed service voters or overseas voters may register or
18 enroll at any time by completing a federal or state voter
19 registration application form and filing it with the registrar.

20 **Sec. 26. 21-A MRSA §778**, as enacted by PL 1985, c. 161, §6,
21 is amended to read:

22 **§778. Duty of registrar**

23 On receipt of an application under section ~~777~~ 777-A, the
24 registrar shall register the applicant, unless it appears that he
25 the applicant is not qualified. If he the applicant is not
26 qualified, the registrar shall notify him the applicant of the
27 reason why for rejection of the application.

28 **1. Member specially designated.** The registrar shall place
29 the letter "S" on the voting list beside the name of each ~~member~~
30 of-the-Armed-Forces uniformed service voter registered under this
31 section.

32 **2. Overseas voter specially designated.** The registrar
33 shall place the letter "O" on the voting list beside the name of
34 each overseas voter registered under this section.

35 **Sec. 27. 21-A MRSA §779**, as enacted by PL 1985, c. 161, §6,
36 is repealed.

2 **Sec. 28. 21-A MRSA §780**, as enacted by PL 1985, c. 161, §6,
is repealed and the following enacted in its place:

4 **§780. Absentee ballots; application**

6 A uniformed service voter or an overseas voter may request
8 an absentee ballot as provided in section 753-A or by submitting
10 a federal application or form requesting an absentee ballot.
12 Prior to the time when regular absentee ballots are available, if
14 an applicant requests a blank write-in absentee ballot or
16 indicates that it takes more than 6 weeks to receive and return
18 mail to the applicant's location, the clerk shall send a blank
20 write-in absentee ballot to the voter. Once the regular absentee
 ballots become available, the clerk shall issue a regular
 absentee ballot in response to any request under this section.
 If the clerk has issued a blank write-in absentee ballot to a
 voter before the regular absentee ballots become available, the
 clerk may send a regular absentee ballot to the voter, following
 the procedures for issuing a 2nd absentee ballot under section
 753-B.

22 **Sec. 29. 21-A MRSA §781**, as enacted by PL 1985, c. 161, §6,
is repealed.

24 **Sec. 30. 21-A MRSA §781-A** is enacted to read:

26 **§781-A. Absentee ballot application; procedure on receipt**

28 Upon receipt of an application, written request or telephone
30 application for an absentee ballot that is accepted pursuant to
32 section 753-A, the clerk shall immediately issue an absentee
34 ballot and return envelope by mail or in person to the applicant
36 or to the immediate family member or to a 3rd person designated
38 in a written application or request made by the voter. The clerk
 shall type or write in ink the name and the residence address of
 the voter in the designated section of the return envelope. The
 Secretary of State shall provide a return envelope which moves
 free of postage under federal law.

40 **Sec. 31. 21-A MRSA §§782 and 783**, as enacted by PL 1985, c.
161, §6, are amended to read:

42 **§782. Absentee ballots; procedure on return**

44 On receipt of a return envelope apparently containing an
46 absentee ballot, the clerk shall ~~note the date and time of~~
48 ~~delivery on it and deliver it to the registrar~~ follow the
50 procedures for regular absentee voting under this subchapter.
 ~~The registrar shall certify on the envelope whether the person~~
 ~~whose name appears as sender is registered and, in a primary~~

election, ~~enrolled in the municipality. He shall then return the envelope to the clerk.~~

§783. Authority of Secretary of State

The Secretary of State may act administratively to facilitate voting by ~~members--of--the--Armed--Forces~~ uniformed service voters and overseas voters. He ~~The~~ Secretary of State may use federal or other facilities available for this purpose.

SUMMARY

This bill makes changes necessary to bring the Maine Revised Statutes, Title 21-A into compliance with the requirements of federal election laws, including the Help America Vote Act of 2002, HAVA, and the Uniformed and Overseas Citizens Absentee Voting Act, and specifies that the Secretary of State is responsible for overseeing the State's duties with respect to these Acts. The bill adds or amends certain definitions relating to members of the uniformed service and overseas voters. The bill also updates existing sections of the election law with the new terms. The bill makes changes to the voter registration application to add certain identifying information as required by HAVA. The bill specifies that in order for 17-year olds to preregister to vote, they must turn 18 years of age prior to the next election. The bill also clarifies what documentation must be retained in the voter registration file. The bill also makes a single, standard requirement for the number of voting booths needed for a general election for all municipalities. The bill requires each voting place to have at least one voting booth that is accessible for persons with physical disabilities. This bill replaces the current requirements for instructions for the blank, write-in absentee ballots with authority for the Secretary of State to determine those instructions. The bill clarifies usage of the federal write-in absentee ballot. The bill also streamlines the process for recording absentee ballots issued by removing a duplicative requirement that the registrar certify the absentee ballot applications. The bill requires municipal clerks to file a report with the Secretary of State indicating how many persons were issued and returned absentee ballots for each election; and further identifying the number of ballots that were issued to uniformed service voters and overseas voters. This bill makes other changes to the provisions for absentee voting for the uniformed service voters and overseas voters that are consistent with current laws governing all other absentee voters.