

# MAINE STATE LEGISLATURE

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Date: 5/31/11

Majority

L.D. 199

(Filing No. H-385)

VETERANS AND LEGAL AFFAIRS

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
125TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 176, L.D. 199, Bill, "An Act To Strengthen Maine's Election Laws by Requiring Photograph Identification for the Purpose of Voting"

Amend the bill by striking out everything after the title and before the summary and inserting the following:

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

**Sec. 1. 21-A MRSA §671, sub-§1,** as amended by PL 2005, c. 453, §55, is further amended to read:

**1. Name announced; proof of identity.** A voter who wishes to vote must state the voter's name and present proof of identity in the form of a photographic identification document and, upon request, state the voter's residence address to an election clerk, who shall announce the name in a loud, clear voice. Photographic identification required by this subsection must be an official identification document or card issued by a state, the Federal Government or a college or university located in the State and must not be expired. Photographic identification required by this subsection must be used solely to verify the identity of the person who wishes to vote. If a person who wishes to vote does not present photographic identification, that person must be permitted to cast a provisional ballot as provided by section 671-A. Before November 7, 2012, the identity of a person who does not present photographic proof of identity but is known to an election worker at the voting place may be verified as provided in subsection 1-A.

**Sec. 2. 21-A MRSA §671, sub-§1-A** is enacted to read:

**COMMITTEE AMENDMENT**

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1-A. Voter known to election worker; verification of identity. A voter who does not provide photographic identification on election day as required by subsection 1 and is known to an election worker at the voting place may be issued a ballot after completion and signing of an affidavit by the election worker. The affidavit must be in a form prescribed by the Secretary of State and must be written to indicate that the election worker can personally attest to the identity of the voter. The election worker may issue the voter a ballot after the election worker who can attest to the identity of the voter has signed the affidavit. For the purposes of this subsection, "election worker" includes a municipal clerk, registrar and election official. This subsection is repealed November 7, 2012.

Sec. 3. 21-A MRS §671-A is enacted to read:

§671-A. Provisional voting

A person who has not provided photographic identification as required by section 671, subsection 1 and has not had the person's identity verified by affidavit as provided in section 671, subsection 1-A must be permitted to cast a provisional ballot as follows.

1. How issued. In order to cast a provisional ballot under this section, a person must complete and sign a provisional ballot affidavit, swearing to or affirming that that person is the person that person claims to be on the incoming voting list. The provisional ballot affidavit must be on a form designed by the Secretary of State and must include, at a minimum, the person's name, address, party affiliation, if any, and reason that the person was not able to provide photographic proof of identity.

2. Ballot and provisional envelope issued. As soon as the provisional ballot affidavit form under subsection 1 has been completed, the election clerk in charge of ballots shall give a provisional ballot and a provisional ballot envelope to the warden. The warden shall write a provisional ballot number on the affidavit form and the provisional ballot envelope and give the ballot and envelope to the voter. The warden also shall give the voter a notice about provisional voting, on a form designed by the Secretary of State, that includes the provisional ballot number assigned to the voter's ballot. The form must clearly state that the person who wishes to vote has 3 business days to provide the warden or election clerk photographic proof of identity as prescribed in section 671, subsection 1 in order for the provisional ballot to be counted.

3. Proceed to vote. After a voter marks the provisional ballot under subsection 2, the voter shall seal it in the provisional ballot envelope and return it to the warden.

4. Provisional ballots segregated and logged. The warden shall place a provisional ballot envelope containing a provisional ballot completed under this section in a tamper-proof container until the identity of the person marking the ballot can be verified by photographic identification as required by section 671, subsection 1. The warden also shall complete a provisional ballot log, on a form provided by the Secretary of State, that indicates for each provisional ballot the name of the voter, the provisional ballot number and a notation of whether the provisional ballot was resolved and cast. The sealed tamper-proof containers of provisional ballots that are not resolved must be returned to the municipal clerk after the polls are closed, along with all provisional ballot affidavits and the provisional ballot log form.

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**5. Resolution and counting of provisional ballots.** When a provisional ballot is cast under this section, the municipal clerk or registrar shall proceed as follows.

A. If the identity of a person casting a provisional ballot under this section is verified upon presentation of acceptable photographic identification by the close of the polls on election day, the clerk or registrar shall designate on the provisional ballot log under subsection 4 that the provisional ballot was accepted. The warden shall remove the provisional ballot from the sealed provisional ballot envelope and place it into the ballot box or tabulator to be counted with the other ballots after the polls close. The election clerk in charge of the incoming voting list shall annotate the incoming voting list to indicate that the voter voted.

B. If the identity of a person casting a provisional ballot under this section is verified upon presentation of acceptable photographic identification after the close of the polls on election day, but not later than the 3rd business day after the election, the clerk or registrar shall designate on the provisional ballot log under subsection 4 that the provisional ballot was accepted. The clerk or registrar, in the presence of one or more witnesses, shall remove the provisional ballot from the sealed provisional ballot envelope and place it into a ballot box in a manner that preserves the secrecy of the vote. After all accepted provisional ballots have been placed into the ballot box, the clerk or registrar shall remove and count the provisional ballots in the same manner as regular ballots. After the incoming voting list is unsealed following the election, the clerk or registrar shall annotate the list to add the names and addresses of the voters under this subsection, along with an indication that the voters voted.

C. If a person casting a provisional ballot under this section has not presented photographic identification acceptable to verify the person's identity within 3 business days after the election, the clerk or registrar shall write "rejected" on the provisional ballot envelope and return the unopened envelope to the tamper-proof container. The clerk or registrar shall update the provisional ballot log under subsection 4 to indicate the ballot was rejected.

**6. Report to Secretary of State.** No later than 3 business days after an election, the clerk shall report the status of all provisional ballots of the municipality under this section to the Secretary of State by providing a copy of the provisional ballot log under subsection 4. In addition to annotating the provisional ballot log to indicate whether provisional ballots were accepted or rejected, the clerk shall update the municipality's return of votes cast to include the votes cast by all provisional voters who presented acceptable photographic identification.

**7. Secretary of State to make status available.** Within 20 days after an election, the Secretary of State shall make available on the Secretary of State's publicly accessible website the total number of provisional ballots under this section for that election, including the number of ballots that were counted and the number of ballots that were not counted. For a ballot that was not counted, the reason the ballot was not counted must be included.

Sec. 4. 29-A MRS §1410, sub-§10 is enacted to read:

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10. Identification cards for the purpose of voting. A person who submits an application for a nondriver identification card is not required to pay the fee required by subsection 2 if the person attests in the application that:

A. The person does not have photographic identification acceptable for the verification of the person's identity for the purposes of voting as required by Title 21-A, section 671, subsection 1; and

B. The person is applying for a nondriver identification card solely for the purpose of voting.'

**SUMMARY**

This amendment adds a mandate preamble and specifies the types of photographic identification that may be used to verify the identity of a voter. The amendment provides that a person who does not present photographic identification may cast a provisional ballot. The amendment establishes the process for provisional voting. Under this amendment, if the person can verify the person's identity to the warden or an election clerk within 3 business days of the election by presenting acceptable photographic identification, the ballot will be cast as a regular ballot. Through the general election of 2012, a person who does not present acceptable photographic identification but is known to a municipal clerk, registrar or election official at the voting place may cast a regular ballot upon submission of an affidavit by the municipal clerk, registrar or election official attesting to the person's identity. Finally, this amendment requires the Secretary of State to provide, at no fee, nondriver identification cards to eligible persons who do not have another form of acceptable photographic identification to verify identity for the purpose of voting.

**FISCAL NOTE REQUIRED**  
(See attached)

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# 125th MAINE LEGISLATURE

LD 199

LR 108(02)

## An Act To Strengthen Maine's Election Laws by Requiring Photograph Identification for the Purpose of Voting

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Veterans and Legal Affairs

Fiscal Note Required: Yes

### Fiscal Note

Current biennium cost increase - Federal Expenditures Fund

State Mandate - Exempted

#### State Mandates

**Required Activity**

Establishes a provisional voting process requiring election officials to track provisional ballots and provisional ballot affidavits, complete a provisional ballot log and report the status of all provisional ballots to the Secretary of State.

**Unit Affected**

Municipality

**Local Cost**

Moderate statewide

Pursuant to the Mandate Preamble, the two-thirds vote of all members elected to each House exempts the state from the constitutional requirement to fund 90% of the additional costs.

#### Fiscal Detail and Notes

This legislation requires voters to provide proof of identity with photograph identification documentation when voting. The legislation includes a provision to issue a free nondriver identification card to individuals who have never been issued a card and need one solely for the purpose of voting. Costs associated with issuing free identification cards, education and training would be covered by federal Help America Vote Act funds. Additional costs to the Department of Secretary of State associated with affidavits and forms are considered minor and can be absorbed within existing budgeted resources.