

1 HB373
2 146780-3
3 By Representatives Moore (B), Boothe, Beckman, Warren,
4 McMillan, Vance, Buskey, Davis, Lee, Love, Chesteen, Grimsley,
5 Colston, Melton, Drake, Henry, Gaston and Collins
6 RFD: Constitution, Campaigns and Elections
7 First Read: 28-FEB-13

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ENGROSSED

A BILL
TO BE ENTITLED
AN ACT

To amend Sections 17-11-3 and 17-11-7, Code of Alabama 1975, relating to absentee voting; to authorize the Secretary of State, by emergency rule, to provide for absentee voting by those qualified electors who have responded to an emergency situation away from their polling places.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 17-11-3 and 17-11-7 of the Code of Alabama 1975, are amended to read as follows:

"§17-11-3.

"(a) Any qualified elector of this state may apply for and vote an absentee ballot by mail or by hand delivery, as provided in Sections 17-11-5 and 17-11-9, in any primary, general, special, or municipal election, if he or she makes application in writing therefor not less than five days prior to the election in which he or she desires to vote and meets one of the following requirements:

"(1) The person will be out of the county or the state, or the municipality for municipal elections, on election day.

1 "(2) The person has any physical illness or
2 infirmity which prevents his or her attendance at the polls,
3 whether he or she is within or without the county on the day
4 of the election.

5 "(3) The person works on a shift which has at least
6 10 hours which coincide with the hours the polls are open at
7 his or her regular polling place.

8 "(4) The person is enrolled as a student at an
9 educational institution located outside the county of his or
10 her personal residence attendance at which prevents his or her
11 attendance at the polls.

12 "(5) The person is a member of, or spouse or
13 dependent of a member of, the Armed Forces of the United
14 States or is similarly qualified to vote absentee pursuant to
15 the federal Uniformed and Overseas Citizens Absentee Voting
16 Act, 42 U.S.C. 1973ff.

17 "(6) The person has been appointed as an election
18 officer or named as a poll watcher at a polling place other
19 than his or her regular polling place.

20 "(b) An applicant for an absentee ballot who is a
21 member of the Armed Forces of the United States, including the
22 Alabama National Guard, the United States Naval Reserves, the
23 United States Air Force Reserves, and the United States Army
24 Reserve on active duty or active duty for training or an
25 applicant who is the spouse of any member of the armed forces
26 or any other applicant qualified to vote absentee pursuant to
27 the federal Uniformed and Overseas Citizens Absentee Voting

1 Act, 42 U.S.C. 1973ff, may make application for an absentee
2 ballot by filling out the federal postcard application form,
3 authorized and provided for under the provisions of "The
4 Federal Voting Assistance Act of 1955," Public Law 296,
5 Chapter 656, H.R. 4048, approved August 9, 1955, 84th Congress
6 1st Session.

7 "(c) Any registered elector who requires emergency
8 treatment of a licensed physician within five days of an
9 election may apply for an emergency absentee ballot for the
10 election and may vote by returning the absentee ballot no
11 later than noon on the day the election is held. The attendant
12 physician shall describe and certify the circumstances as
13 constituting an emergency on a special form designed by the
14 Secretary of State and provided by his or her office to local
15 absentee election managers. The special form shall be attached
16 to the application.

17 "(d) Any registered elector whose name appears on
18 the poll list of qualified voters may vote by an emergency
19 absentee ballot if he or she is required by his or her
20 employer under unforeseen circumstances to be out of the
21 county on an emergency business trip on election day. Under
22 such circumstances, the applicant shall apply for an emergency
23 absentee ballot at the office of the absentee election manager
24 no later than the close of the business day one day prior to
25 the election. The applicant shall complete and file an
26 application form designed by the Secretary of State for
27 emergency absentee voters. The form shall contain an affidavit

1 which the applicant shall sign or swear acknowledging that he
2 or she was not aware of the out-of-county business requirement
3 prior to five days before the election. An applicant who meets
4 the requirements of this subsection may vote by an emergency
5 absentee ballot. After voting the ballot, the voter shall hand
6 the ballot to the absentee election manager.

7 "(e) If the occurrence of a state of emergency as
8 declared in this or any other state, or by the federal
9 government, renders substantial compliance with this article
10 impossible or unreasonable for a group of qualified voters who
11 respond to the emergency, the Secretary of State, pursuant to
12 Section 41-22-5 of the Alabama Administrative Procedure Act,
13 may promulgate an emergency rule to allow those qualified
14 voters to vote by absentee ballot.

15 Notwithstanding any other laws to the contrary, all
16 expenses and costs incurred by the state or any county in
17 carrying out the responsibilities and duties included in an
18 emergency rule promulgated pursuant to this subsection shall
19 be paid by the State of Alabama from any funds made available
20 for election expenses under state and federal law.

21 "(f) Notwithstanding any other provision of
22 otherwise applicable law, in the event more than one absentee
23 ballot is cast in the name of the single voter, whether any
24 such multiple ballot is cast by mail or otherwise, none of the
25 affidavit envelopes containing the multiple ballots shall be
26 opened, and none of the multiple ballots shall be counted,
27 except in the event of an election contest, upon the order of

1 the election contest tribunal. Upon the conclusion of an
2 election contest or, in the event no such contest is filed,
3 upon the expiration of time for filing such a contest, the
4 multiple ballots shall be provided to the district attorney,
5 with photocopies provided to the state Attorney General, for
6 such investigation, prosecution, or other action as may be
7 appropriate under applicable law.

8 "§17-11-7.

9 "(a) Each absentee ballot shall be accompanied by an
10 envelope upon which shall be printed an affidavit.

11 "(b) With respect to an absentee ballot cast
12 pursuant to Section 17-11-3, the affidavit shall read as
13 follows:

14 ""State of Alabama

15 "County of _____

16 "I, the undersigned, do swear (or affirm) that:

17 "(1) I am a resident of _____ County in the
18 State of Alabama.

19 (2) My place of residence in Alabama is: _____

20 (street)

21 _____, Alabama _____

22 (city or town)

(zip code)

23 "(3) My voting precinct (or place where I vote)
24 is: _____

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"(4) My date of birth is: _____

month day year

"(5) I am entitled to vote an absentee ballot
because:

"Check only one:

"___ I will be out of the county or the state on
election day.

"___ I am physically incapacitated and will not be
able to vote in person on election day.

"___ I work a required workplace shift which has at
least 10 hours which coincide with the polling hours at my
regular polling place.

"___ I am a student at an educational institution
located outside the county of my permanent residence and am
therefore unable to vote at my usual polling place on election
day.

"___ I am a member of or a spouse or dependent of a
member of the Armed Forces of the United States or am
otherwise entitled to vote pursuant to the federal Uniformed
and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff.

1 "___ I have been appointed as an election officer at
2 a polling place which is not my regular polling place.

3 "___ I will be out of the county on election day
4 responding to a state of emergency as declared by this state
5 or any other state, or by the federal government.

6 "I further swear (or affirm) that I have not voted
7 nor will I vote in person in the election to which this ballot
8 pertains.

9 "I have marked the enclosed absentee ballot
10 voluntarily and I have read or had read to me and understand
11 the instructions accompanying this ballot and I have carefully
12 complied with such instructions.

13 "Moreover, I further swear (or affirm) that all of
14 the information given above is true and correct to the best of
15 my knowledge and that I understand that by knowingly giving
16 false information so as to vote illegally by absentee ballot
17 that I shall be guilty of a misdemeanor which is punishable by
18 a fine not to exceed one thousand dollars (\$1,000) or confine-
19 ment in the county jail for not more than six months, or both.

20 _____
21 (Signature or mark of voter.)

22 _____
23 (Printed name of voter.)

1 "IF YOUR AFFIDAVIT IS NOT SIGNED (OR MARKED), AND IF
2 YOUR AFFIDAVIT IS NOT WITNESSED BY TWO WITNESSES 18 YEARS OF
3 AGE OR OLDER OR A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO
4 ACKNOWLEDGE OATHS, PRIOR TO BEING DELIVERED OR MAILED TO THE
5 ABSENTEE ELECTION MANAGER, YOUR BALLOT WILL NOT BE COUNTED.

6 "Sworn to and subscribed before me this _____ day of
7 _____, 2__.

8 "I certify that the affiant is known (or made known)
9 to me to be the identical party he or she claims to be.

10 _____ (Signature of official)

11 (Title of official)

12 _____
13 (Address of official)

14 OR

15 1st Witness _____

16 Signature

17 _____
18 Print name

19 _____
20 Address

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City Zip Code

2nd Witness_____

Signature

Print name

Address

City Zip Code"

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Constitution,
Campaigns and Elections..... 28-FEB-13

Read for the second time and placed
on the calendar 1 amendment 20-MAR-13

Read for the third time and passed
as amended..... 11-APR-13

Yeas 85, Nays 0, Abstains 1

Jeff Woodard
Clerk