

1 HB399
2 207722-2
3 By Representative Allen
4 RFD: Constitution, Campaigns and Elections
5 First Read: 11-FEB-21

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8 SYNOPSIS: Under existing law, an elector may vote by
9 absentee ballot if he or she meets one of the
10 listed criteria for which absentee voting is
11 authorized. To vote by absentee ballot, an elector
12 must provide a copy of photo identification and
13 must have his or her ballot witnessed by two
14 individuals or be notarized.

15 Also under existing law, if a state of
16 emergency renders substantial compliance with the
17 absentee ballot laws unreasonable, the Secretary of
18 State may adopt an emergency rule to allow those
19 electors to vote by absentee ballot.

20 This bill would prohibit the Secretary of
21 State, when adopting emergency rules to revise the
22 absentee ballot requirements in a state of
23 emergency, from waiving the requirements that an
24 elector submit an application and provide a copy of
25 photo identification and have his or her ballot
26 witnessed or notarized.

1 A BILL
2 TO BE ENTITLED
3 AN ACT

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5 Relating to absentee ballot voting; to amend Section
6 17-11-3, Code of Alabama 1975; to prohibit the Secretary of
7 State, when adopting emergency rules to revise the absentee
8 ballot requirements in a state of emergency, from waiving the
9 requirements that an elector submit an application and provide
10 a copy of photo identification in order to receive an absentee
11 ballot and have his or her absentee ballot witnessed or
12 notarized.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Section 17-11-3, Code of Alabama 1975, is
15 amended to read as follows:

16 "§17-11-3.

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

25 "(1) The person expects to be out of the county or
26 the state, or the municipality for municipal elections, on
27 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 expects to work a shift which has at
6 least 10 hours which coincide with the hours the polls are
7 open at 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
11 her 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 "(7) The person is a caregiver for a family member
21 to the second degree of kinship by affinity or consanguinity
22 and the family member is confined to his or her home.

23 "(8) The person is incarcerated in prison or jail
24 and has not been convicted of a felony involving moral
25 turpitude, as provided in Section 17-3-30.1.

26 "(b) An applicant for an absentee ballot who is a
27 member of the Armed Forces of the United States, including the

1 Alabama National Guard, the United States Naval Reserves, the
2 United States Air Force Reserves, and the United States Army
3 Reserve on active duty or active duty for training or an
4 applicant who is the spouse of any member of the armed forces
5 or any other applicant qualified to vote absentee pursuant to
6 the federal Uniformed and Overseas Citizens Absentee Voting
7 Act, 42 U.S.C. § 1973ff, may make application for an absentee
8 ballot by filling out the federal postcard application form,
9 authorized and provided for under the provisions of The
10 Federal Voting Assistance Act of 1955, Public Law 296, Chapter
11 656, H.R. 4048, approved August 9, 1955, 84th Congress 1st
12 Session.

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

23 "(d) (1) Any registered elector whose name appears on
24 the poll list of qualified voters may vote by an emergency
25 absentee ballot if any of the following situations arise:

26 "a. The elector is required by his or her employer
27 under unforeseen circumstances within five days before an

1 election to be unavailable to vote at the polls on election
2 day.

3 "b. The elector is a caregiver of a person who
4 requires emergency treatment by a licensed physician within
5 five days before an election.

6 "c. A family member to the second degree of kinship
7 by affinity or consanguinity of an elector dies within five
8 days before an election.

9 "(2) Under such circumstances, the elector shall
10 apply for an emergency absentee ballot at the office of the
11 absentee election manager no later than the close of the
12 business day one day prior to the election. The applicant
13 shall complete and file an application form designed by the
14 Secretary of State for emergency absentee voters. The form
15 shall contain an affidavit which the applicant shall sign or
16 swear acknowledging that he or she was not aware of the
17 situation constituting the emergency prior to five days before
18 the election. An applicant who meets the requirements of this
19 subsection may vote by an emergency absentee ballot. After
20 voting the ballot, the voter shall hand the ballot to the
21 absentee election manager.

22 "(e) (1) If the occurrence of a state of emergency as
23 declared in this or any other state, or by the federal
24 government, renders substantial compliance with this article
25 impossible or unreasonable for a group of qualified voters who
26 respond to the emergency, the Secretary of State, pursuant to
27 Section 41-22-5, may adopt an emergency rule to allow those

1 qualified voters to vote by absentee ballot. Notwithstanding
2 any other laws to the contrary, all expenses and costs
3 incurred by the state or any county in carrying out the
4 responsibilities and duties included in an emergency rule
5 adopted pursuant to this subsection shall be paid by the State
6 of Alabama from any funds made available for election expenses
7 under state and federal law.

8 "(2) Notwithstanding subdivision (1), the Secretary
9 of State, at any time, including in response to a state of
10 emergency, shall not permit or authorize voting by absentee
11 ballot in a manner that would do any of the following:

12 "a. Waive the requirement that a copy of photo
13 identification be submitted to receive an absentee ballot.

14 "b. Waive the requirement that an absentee ballot be
15 notarized or witnessed by two individuals.

16 "c. Waive the requirement that an elector submit an
17 absentee ballot application in order to receive an absentee
18 ballot.

19 "(f) Notwithstanding any other provision of
20 otherwise applicable law, in the event more than one absentee
21 ballot is cast in the name of the single voter, whether any
22 such multiple ballot is cast by mail or otherwise, none of the
23 affidavit envelopes containing the multiple ballots shall be
24 opened, and none of the multiple ballots shall be counted,
25 except in the event of an election contest, upon the order of
26 the election contest tribunal. Upon the conclusion of an
27 election contest or, in the event no such contest is filed,

1 upon the expiration of time for filing such a contest, the
2 multiple ballots shall be provided to the district attorney,
3 with photocopies provided to the state Attorney General, for
4 the investigation, prosecution, or other action as may be
5 appropriate under applicable law."

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