

1 HB28
2 200847-1
3 By Representatives Jackson and Hatcher
4 RFD: Constitution, Campaigns and Elections
5 First Read: 04-FEB-20
6 PFD: 01/14/2020

SYNOPSIS: Under existing law, a registered voter may only vote by absentee ballot if he or she meets one of the criteria prescribed by law for voting absentee.

This bill would allow a registered voter to vote by absentee ballot without an excuse.

A BILL
TO BE ENTITLED
AN ACT

Relating to voting; to amend Sections 17-11-3 and 17-11-7, Code of Alabama 1975; to authorize absentee ballot voting without an excuse.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 17-11-3 and 17-11-7, 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~~ in

1 person, as provided in Sections 17-11-5 and 17-11-9, in any
2 primary, general, special, or municipal election, if he or she
3 makes application in writing therefor not less than five days
4 prior to the election in which he or she desires to vote. and
5 ~~meets one of the following requirements:~~

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

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

13 ~~"(3) The person works on a shift which has at least~~
14 ~~10 hours which coincide with the hours the polls are open at~~
15 ~~his or her regular polling place.~~

16 ~~"(4) The person is enrolled as a student at an~~
17 ~~educational institution located outside the county of his or~~
18 ~~her personal residence attendance at which prevents his or her~~
19 ~~attendance at the polls.~~

20 ~~"(5) The person is a member of, or spouse or~~
21 ~~dependent of a member of, the Armed Forces of the United~~
22 ~~States or is similarly qualified to vote absentee pursuant to~~
23 ~~the federal Uniformed and Overseas Citizens Absentee Voting~~
24 ~~Act, 42 U.S.C. 1973ff.~~

25 ~~"(6) The person has been appointed as an election~~
26 ~~officer or named as a poll watcher at a polling place other~~
27 ~~than his or her regular polling place.~~

1 "(b) An applicant for an absentee ballot who is a
2 member of the Armed Forces of the United States, including the
3 Alabama National Guard, the United States Naval Reserves, the
4 United States Air Force Reserves, and the United States Army
5 Reserve on active duty or active duty for training or an
6 applicant who is the spouse of any member of the armed forces
7 or any other applicant qualified to vote absentee pursuant to
8 the federal Uniformed and Overseas Citizens Absentee Voting
9 Act, 42 U.S.C. 1973ff, may make application for an absentee
10 ballot by filling out the federal postcard application form,
11 authorized and provided for under the provisions of "The
12 Federal Voting Assistance Act of 1955," Public Law 296,
13 Chapter 656, H.R. 4048, approved August 9, 1955, 84th Congress
14 1st Session.

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

25 "(d) Any registered elector whose name appears on
26 the poll list of qualified voters may vote by an emergency
27 absentee ballot if he or she is required by his or her

1 employer under unforeseen circumstances to be out of the
2 county on an emergency business trip on election day. Under
3 such circumstances, the applicant shall apply for an emergency
4 absentee ballot at the office of the absentee election manager
5 no later than the close of the business day one day prior to
6 the election. The applicant shall complete and file an
7 application form designed by the Secretary of State for
8 emergency absentee voters. The form shall contain an affidavit
9 which the applicant shall sign or swear acknowledging that he
10 or she was not aware of the out-of-county business requirement
11 prior to five days before the election. An applicant who meets
12 the requirements of this subsection may vote by an emergency
13 absentee ballot. After voting the ballot, the voter shall hand
14 the ballot to the absentee election manager.

15 "(e) If the occurrence of a state of emergency as
16 declared in this or any other state, or by the federal
17 government, renders substantial compliance with this article
18 impossible or unreasonable for a group of qualified voters who
19 respond to the emergency, the Secretary of State, pursuant to
20 Section 41-22-5, may ~~promulgate~~ adopt an emergency rule to
21 allow those qualified voters to vote by absentee ballot.
22 Notwithstanding any other laws to the contrary, all expenses
23 and costs incurred by the state or any county in carrying out
24 the responsibilities and duties included in an emergency rule
25 ~~promulgated~~ adopted pursuant to this subsection shall be paid
26 by the State of Alabama from any funds made available for
27 election expenses under state and federal law.

1 "(f) Notwithstanding any other provision of
2 otherwise applicable law, in the event more than one absentee
3 ballot is cast in the name of the single voter, whether any
4 such multiple ballot is cast by mail or otherwise, none of the
5 affidavit envelopes containing the multiple ballots shall be
6 opened, and none of the multiple ballots shall be counted,
7 except in the event of an election contest, upon the order of
8 the election contest tribunal. Upon the conclusion of an
9 election contest or, in the event no such contest is filed,
10 upon the expiration of time for filing such a contest, the
11 multiple ballots shall be provided to the district attorney,
12 with photocopies provided to the state Attorney General, for
13 such investigation, prosecution, or other action as may be
14 appropriate under applicable law.

15 "§17-11-7.

16 (a) Each absentee ballot shall be accompanied by an
17 envelope upon which shall be printed an affidavit.

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

20 "State of Alabama

21 County of _____

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

23 (1) I am a resident of _____ County in the
24 State of Alabama.

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

1 (street)
2 _____, Alabama _____
3 (city or town) (zip code)

4 (3) My voting precinct (or place where I vote)
5 is: _____
6 _____
7 _____

8 (4) My date of birth is: _____
9 month day year

10
11 ~~(5) I am entitled to vote an absentee ballot~~
12 ~~because:~~
13 ~~"Check only one:~~
14 ~~___ I will be out of the county or the state on~~
15 ~~election day.~~
16 ~~___ I am physically incapacitated and will not be~~
17 ~~able to vote in person on election day.~~
18 ~~___ I work a required workplace shift which has at~~
19 ~~least 10 hours which coincide with the polling hours at my~~
20 ~~regular polling place.~~
21 ~~___ I am a student at an educational institution~~
22 ~~located outside the county of my permanent residence and am~~

1 ~~therefore unable to vote at my usual polling place on election~~
2 ~~day.~~

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

7 ~~_____ I have been appointed as an election officer at~~
8 ~~a polling place which is not my regular polling place.~~

9 ~~_____ I will be out of the county on election day~~
10 ~~responding to a state of emergency as declared by this state~~
11 ~~or any other state, or by the federal government.~~

12 I further swear (or affirm) that I have not voted
13 nor will I vote in person in the election to which this ballot
14 pertains.

15 I have marked the enclosed absentee ballot
16 voluntarily and I have read or had read to me and understand
17 the instructions accompanying this ballot and I have carefully
18 complied with such instructions.

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

1 _____
2 (Signature or mark of voter.)

3 _____
4 (Printed name of voter.)

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

10 Sworn to and subscribed before me this _____ day of
11 _____, 2__.

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

14 _____ (Signature of official)

15 (Title of official)

16 _____

17 (Address of official)

18 OR

19 1st Witness _____

20 Signature
21 _____

1
2
3
4
5
6
7
8
9
10
11
12
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14
15
16

Print name

Address

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.