**South Carolina General Assembly**

118th Session, 2009-2010

**S. 354**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Lourie, Jackson, Ford, Williams, Sheheen, Pinckney, McGill, Malloy and Land

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Companion/Similar bill(s): 142

Introduced in the Senate on January 29, 2009

Currently residing in the Senate Committee on **Judiciary**

Summary: Absentee ballots

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/29/2009 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2009\01-29-09.docx)‑10

1/29/2009 Senate Referred to Committee on **Judiciary** [SJ](file:///h:\SJ%20Archive\2009\01-29-09.docx)‑10

3/13/2009 Senate Referred to Subcommittee: Campsen (ch), Cleary, Scott

**VERSIONS OF THIS BILL**

[1/29/2009](file:///p:\pprever\2009-10\354_20090129.docx)

**A** **BILL**

TO AMEND SECTION 7‑15‑320 OF THE 1976 CODE, RELATING TO PERSONS QUALIFIED TO VOTE BY ABSENTEE BALLOT, TO ALLOW ANY PERSON QUALIFIED TO VOTE IN SOUTH CAROLINA TO VOTE BY AN ABSENTEE BALLOT; TO AMEND SECTION 7‑15‑330, RELATING TO THE APPLICATION FOR AN ABSENTEE BALLOT, TO REMOVE ALL MENTION OF QUALIFICATIONS TO VOTE ABSENTEE AND ALLOW THE APPLICATION PROCESS TO BE COMPLETED ONLINE; TO AMEND SECTION 7‑15‑340, RELATING TO THE FORM OF THE APPLICATION FOR AN ABSENTEE BALLOT, TO REMOVE ALL MENTION OF REASON TO VOTE ABSENTEE AND ALLOW THE APPLICATION PROCESS TO BE COMPLETED ONLINE; TO AMEND CHAPTER 25, TITLE 7 OF THE 1976 CODE, BY ADDING SECTION 7‑25‑240, RELATING TO OFFENSES AGAINST ELECTION LAWS, TO MAKE THE UTILIZATION OF THE ONLINE APPLICATION PROCESS IN AN UNAUTHORIZED ATTEMPT TO RECEIVE AN ABSENTEE BALLOT IN THE NAME OR VOTER REGISTRATION NUMBER OF ANOTHER A FELONY AND TO SET THE PENALTY FOR THE OFFENSE; AND TO AMEND SECTION 7‑15‑370, RELATING TO FURNISHING BALLOTS AND ENVELOPES, TO REMOVE ALL MENTION OF QUALIFICATIONS TO RECEIVE AN ABSENTEE BALLOT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 7‑15‑320 of the 1976 Code is amended to read:

“Section 7‑15‑320. ~~A~~ Any qualified elector ~~in any of the following categories~~ must be permitted to vote by absentee ballot in all elections ~~when he is absent from his county of residence on election day during the hours the polls are open, to an extent that it prevents him from voting in person except that physically disabled persons, certified poll watchers, poll managers, county voter registration board members and staff, and county election commission members and staff working on election day, a person admitted to a hospital as an emergency patient on the day of an election or within a four‑day period before an election, and persons whose employment obligations required that they be at their place of employment during the hours that the polls are open and present written certification of that obligation to the county registration board, and persons confined to a jail or pre‑trial facility pending disposition of arrest or trial may vote by absentee ballot whether or not absent from their county of residence:~~

~~(1)~~ ~~students, their spouses, and dependents residing with them;~~

~~(2)~~ ~~members of the Armed Forces and Merchant Marines of the United States, their spouses, and dependents residing with them;~~

~~(3)~~ ~~persons serving with the American Red Cross or with the United Service Organizations (USO) who are attached to and serving with the Armed Forces of the United States, their spouses, and dependents residing with them;~~

~~(4)~~ ~~persons in employment;~~

~~(5)~~ ~~physically disabled persons;~~

~~(6)~~ ~~governmental employees, their spouses, and dependents residing with them;~~

~~(7)~~ ~~electors with a death or funeral in the family within a three‑day period before the election;~~

~~(8)~~ ~~persons on vacation (who by virtue of vacation plans will be absent from their county of residence on election day);~~

~~(9)~~ ~~certified poll watchers, poll managers, county voter registration board members and staff, county election commission members and staff working on election day;~~

~~(10)~~ ~~overseas citizens;~~

~~(11)~~ ~~persons attending sick or physically disabled persons;~~

~~(12)~~ ~~persons admitted to hospitals as emergency patients on the day of an election or within a four‑day period before the election;~~

~~(13)~~ ~~persons who will be serving as jurors in a state or federal court on election day;~~

~~(14)~~ ~~persons sixty‑five years of age or older;~~

~~(15)~~ ~~persons confined to a jail or pre‑trial facility pending disposition of arrest or trial~~.”

SECTION 2. Section 7‑15‑330 of the 1976 Code is amended to read:

“Section 7‑15‑330. To vote by absentee ballot, a qualified elector or a member of his immediate family must request an application to vote by absentee ballot in person, by telephone, by completing an application online, or by mail from the county registration board, or at an extension office of the board of registration as established by the county governing body, for the county of the voter’s residence. A person requesting an application for a qualified elector as the qualified elector’s authorized representative must request an application to vote by absentee ballot in person, by completing an application online, or by mail ~~only~~ and must himself be a registered voter and must sign an oath to the effect that he fits the statutory definition of a representative. This signed oath must be kept on file with the board of registration until the end of the calendar year or until all contests concerning a particular election have been finally determined, whichever is later. A candidate or a member of a candidate’s paid campaign staff, including volunteers reimbursed for time expended on campaign activity, is not allowed to request applications for absentee voting for any person designated in this section unless the person is a member of the immediate family. A request for an application to vote by absentee ballot may be made anytime during the calendar year in which the election in which the qualified elector desires to be permitted to vote by absentee ballot is being held. However, completed applications must be returned to the county registration board in person, by electronic transmission over the internet, or by mail before 5:00 p.m. on the fourth day before the day of the election. Applications must be accepted by the county board of registration until 5:00 p.m. on the day immediately preceding the election for those who appear in person and are qualified to vote ~~absentee pursuant to Section 7‑15‑320~~. A member of the immediate family of a person who is admitted to a hospital as an emergency patient on the day of an election or within a four‑day period before the election may obtain an application from the registration board on the day of an election, complete it, receive the ballot, deliver it personally to the patient who shall vote, and personally carry the ballot back to the board of registration. The board of registration shall serially number each absentee ballot application form and keep a record book in which must be recorded the number of the form, the name, home address, and absentee mailing address of the person for whom the absentee ballot application form is requested; the name, address, voter registration number, and relationship of the person requesting the form, if other than the applicant; the date upon which the form is requested; and the date upon which the form is issued. This information becomes a public record at 9:00 a.m. on the day immediately preceding the election, except that forms issued for emergency hospital patients must be made public by 9:00 a.m. on the day following an election. A person who violates the provisions of this section is subject to the penalties provided in Section 7‑25‑170.”

SECTION 3. Section 7‑15‑340 of the 1976 Code is amended to read:

“Section 7‑15‑340. (A) The application required in Section 7‑15‑330 to be submitted to these election officials must be in a form prescribed and distributed by the State Election Commission; except ~~that persons listed in Section 7‑15‑320(2), (3), (6), and (10) may use~~ Standard Form 76, or any subsequent form replacing it, may be used if it is provided by the federal government as a simultaneous request for registration and an absentee ballot or a request for an absentee ballot if the qualified elector is already registered, for any of the following persons:

(1) members of the Armed Forces and Merchant Marines of the United States, their spouses, and dependants residing with them;

(2) persons serving with the American Red Cross or with the United Service Organizations (USO) who are attached to and serving with the Armed Forces of the United States, their spouses, and dependants residing with them;

(3) governmental employees, their spouses, and dependants residing with them; and

(4) overseas citizens.

The application must contain the following information: name, registration certificate number, address, absentee address, election of ballot request, election date, runoff preference, party preference, ~~reason for request,~~ oath of voter, and voter’s signature.

The oath must be as follows: ‘I do swear or affirm that I am a qualified elector, that I am entitled to vote in this election, and that I will not vote again during this election. The information above is true in all respects, and I hereby apply for an absentee ballot ~~for the reason indicated above~~.’ Any person who fraudulently applies for an absentee ballot in violation of this section, upon conviction, must be punished in accordance with Section 7‑25‑20.

(B) The State Election Commission is hereby directed to create and implement a website, or the capacity on its existing website, to facilitate the online application process for absentee ballots and to ensure online applications for absentee ballots are transferred to the county registration board in a timely manner. For the purpose of online applications for absentee ballots, signature requirements are deemed fulfilled when the qualified elector or the qualified elector’s authorized representative provides the last four digits of the qualified elector’s social security number. In processing online applications for absentee ballots, the State Election Commission and county registration boards are hereby directed to treat the qualified elector or the qualified elector authorized representative providing the last four digits of the qualified elector’s social security number as equivalent to a signature.

(C) Any person who utilizes the online application process in an unauthorized attempt to receive an absentee ballot in the name or voter registration number of another, whether successful in the attempt or not, is guilty of a felony and, upon conviction, must be punished in accordance with Section 7‑25‑240.”

SECTION 4. Chapter 25, Title 7 of the 1976 Code is amended by adding:

“Section 7‑25‑240. (A) Any person who utilizes the online application process in an unauthorized attempt to receive an absentee ballot in the name or voter registration number of another, whether successful in the attempt or not, is guilty of a felony. Upon conviction, the person must be fined not less than one hundred nor more than one thousand dollars or imprisoned not more than five years, or both.

(B) This article is not intended to apply to individuals who have been authorized by a qualified elector to assist them in the application process for the purpose of receiving their own absentee ballot.”

SECTION 5. Section 7‑15‑370 of the 1976 Code is amended to read:

“Section 7‑15‑370. Upon receipt of the ballots and envelopes, the county registration board must, as soon as possible, furnish the following items to each person ~~qualified to receive an absentee ballot and~~ who has validly completed ~~a written~~ an application for an absentee ballot:

(1) one of each ballot to be used in the election;

(2) printed instructions as to the marking, folding, and return of each ballot and as to the signing (and return) of the oath;

(3) an envelope marked ‘Ballot Herein’ in which all completed ballots are to be placed;

(4) a return‑addressed envelope imprinted on the back with the oath set forth in Section 7‑15‑385 to be used for the return of the unmarked envelope (and enclosed ballots) to the board of registration;

(5) any additional oath, instructions, or information necessary to enable the absentee ballot applicant to execute and return a ballot legally acceptable by the officials charged with conducting the election.

The board of registration must record in the record book required by Section 7‑15‑330 to be kept by the board the date these materials are requested by written application and the date they are issued to the qualified elector. Election materials which are mailed must be sent to the voter’s absentee mailing address.

If absentee ballots are not available at the time the voter requests one, the board of registration must provide a blank ballot to allow the voter to write in his: (1) selections of candidates; (2) selection of party, if he wishes to vote straight party ticket; and (3) support or opposition of any ballot measure.”

SECTION 6. This act takes effect upon approval by the Governor.

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