

SECOND REGULAR SESSION

HOUSE BILL NO. 1685

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CARNAHAN (Sponsor) AND WASSON (Co-sponsor).

Read 1st time March 17, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4613L.031

AN ACT

To repeal sections 115.126, 115.277, 115.279, 115.283, and 115.290, RSMo, and to enact in lieu thereof five new sections relating to absentee voting, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 115.126, 115.277, 115.279, 115.283, and 115.290, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 115.126, 115.277,
3 115.279, 115.283, and 115.290, to read as follows:

115.126. 1. Notwithstanding any provision of this chapter to the contrary, election
2 authorities shall establish [a plan to implement an advance] **an absentee** voting period when
3 eligible registered voters may vote **absentee in person** before any [general] election [in
4 presidential election years] at the office of the election authority and up to four other polling
5 places designated by and under the control of the election authority. [Such plan shall provide
6 that] The permissible [advance] **in person absentee** voting period shall begin [fourteen days]
7 **on the sixth Tuesday** prior to [such] **an** election and end at 5:00 p.m. on the [Wednesday] **day**
8 before the day of such election.

9 2. [Election authorities shall, pursuant to subsection 1 of this section, establish in their
10 plans the hours and locations for advance voting.] The election authority shall have all [advance]
11 **in person absentee** voting locations open on all business days during the [advance] **in person**
12 **absentee** voting period, and may have all [advance] **in person absentee** voting locations open
13 on Saturdays, Sundays and holidays during the [advance] **in person absentee** voting period.
14 **The election authority shall post the hours, dates, and locations for in person absentee**
15 **voting at the election authority's office and in such locations as the election authority may**

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.

16 **select.**

17 3. Except as provided in this section, [advance] **in person absentee** voting procedures
18 shall be conducted pursuant to sections 115.407 to 115.445. [The secretary of state shall design
19 the necessary application for use in an advance voting program pursuant to this section. All
20 election authorities in this state shall submit to the secretary of state a plan to implement the
21 advance voting period by December 31, 2002. The secretary of state shall assist election
22 authorities in developing a plan for the implementation of an advance voting program.]

23 4. [The plans established pursuant to this section shall also require that] Before the
24 precinct registers are delivered to the polling places for an election, the election authority shall
25 record in the precinct registers the names of all voters who have submitted an advance voting
26 ballot. The election judge shall not allow any person who has voted an advance voting ballot in
27 the election to vote at the polls on election day. If it is determined that any voter submitted an
28 advance voting ballot and voted at the polls on election day, such person, having voted more than
29 once, is guilty of a class one election offense pursuant to subdivision (2) of section 115.631.

30 [5. The secretary of state may promulgate rules to effectuate the provisions of this
31 section.

32 6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
33 is created under the authority delegated in this section shall become effective only if it complies
34 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
35 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers
36 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
37 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the
38 grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be
39 invalid and void.]

115.277. 1. Except as provided in subsections 3, 4 and 5 of this section, any registered
2 voter of this state may vote by absentee ballot for all candidates and issues for which such voter
3 would be eligible to vote at the polling place [if such voter expects to be prevented from going
4 to the polls to vote on election day due to:

5 (1) Absence on election day from the jurisdiction of the election authority in which such
6 voter is registered to vote;

7 (2) Incapacity or confinement due to illness or physical disability, including a person
8 who is primarily responsible for the physical care of a person who is incapacitated or confined
9 due to illness or disability;

10 (3) Religious belief or practice;

11 (4) Employment as an election authority, as a member of an election authority, or by an
12 election authority at a location other than such voter's polling place;

13 (5) Incarceration, provided all qualifications for voting are retained.]

14 2. Any person in federal service, as defined in section 115.275, who is eligible to register
15 and vote in this state but is not registered may vote only in the election of presidential and vice
16 presidential electors, United States senator and representative in Congress even though the
17 person is not registered. Each person in federal service may vote by absentee ballot or, upon
18 submitting an affidavit that the person is qualified to vote in the election, may vote at the person's
19 polling place.

20 3. Any interstate former resident, as defined in section 115.275, may vote by absentee
21 ballot for presidential and vice presidential electors.

22 4. Any intrastate new resident, as defined in section 115.275, may vote by absentee ballot
23 at the election for presidential and vice presidential electors, United States senator, representative
24 in Congress, statewide elected officials and statewide questions, propositions and amendments
25 from such resident's new jurisdiction of residence after registering to vote in such resident's new
26 jurisdiction of residence.

27 5. Any new resident, as defined in section 115.275, may vote by absentee ballot for
28 presidential and vice presidential electors after registering to vote in such resident's new
29 jurisdiction of residence.

115.279. 1. Application for an absentee ballot may be made by the applicant in person,
2 or by mail, or for the applicant, in person, by his or her guardian or a relative within the second
3 degree by consanguinity or affinity. The election authority shall accept applications by facsimile
4 transmission within the limits of its telecommunications capacity.

5 2. Each application shall be made to the election authority of the jurisdiction in which
6 the person is or would be registered. Each application shall be in writing and shall state the
7 applicant's name, address at which he or she is or would be registered, [his or her reason for
8 voting an absentee ballot] and the address to which the ballot is to be mailed, if mailing is
9 requested. Each application to vote in a primary election shall also state which ballot the
10 applicant wishes to receive. If any application fails to designate a ballot, the election authority
11 shall, within three working days after receiving the application, notify the applicant by mail that
12 it will be unable to deliver an absentee ballot until the applicant designates which political party
13 ballot he or she wishes to receive. If the applicant does not respond to the request for political
14 party designation, the election authority is authorized to provide the voter with that part of the
15 ballot for which no political party designation is required.

16 3. All applications for absentee ballots received prior to the sixth Tuesday before an
17 election shall be stored at the office of the election authority until such time as the applications
18 are processed in accordance with section 115.281. No application for an absentee ballot received
19 in the office of the election authority by mail, by facsimile transmission or by a guardian or

20 relative after 5:00 p.m. on the Wednesday immediately prior to the election shall be accepted by
21 any election authority. No application for an absentee ballot submitted by the applicant in person
22 after 5:00 p.m. on the day before the election shall be accepted by any election authority, except
23 as provided in subsections 6, 8 and 9 of this section.

24 4. Each application for an absentee ballot shall be signed by the applicant or, if the
25 application is made by a guardian or relative pursuant to this section, the application shall be
26 signed by the guardian or relative, who shall note on the application his or her relationship to the
27 applicant. If an applicant, guardian or relative is blind, unable to read or write the English
28 language or physically incapable of signing the application, he or she shall sign by mark,
29 witnessed by the signature of an election official or person of his or her own choosing. Any
30 person who knowingly makes, delivers or mails a fraudulent absentee ballot application shall be
31 guilty of a class one election offense.

32 5. (1) Notwithstanding any law to the contrary, any resident of the state of Missouri who
33 resides outside the boundaries of the United States or who is on active duty with the armed forces
34 of the United States or members of their immediate family living with them may request an
35 absentee ballot for both the primary and subsequent general election with one application. In
36 addition, the election authority shall provide to each absent uniformed services voter and each
37 overseas voter who submits an absentee ballot request an absentee ballot through the next two
38 regularly scheduled general elections for federal office.

39 (2) The election authority shall provide each absent uniformed services voter and each
40 overseas voter who submits a voter registration application or an absentee ballot request, if the
41 election authority rejects the application or request, with the reasons for the rejection.

42 (3) Notwithstanding any other law to the contrary, if a standard oath regarding material
43 misstatements of fact is adopted for uniformed and overseas voters pursuant to the Help America
44 Vote Act of 2002, the election authority shall accept such oath for voter registration, absentee
45 ballot, or other election-related materials.

46 (4) Not later than sixty days after the date of each regularly scheduled general election
47 for federal office, each election authority which administered the election shall submit to the
48 secretary of state in a format prescribed by the secretary a report on the combined number of
49 absentee ballots transmitted to, and returned by, absent uniformed services voters and overseas
50 voters for the election. The secretary shall submit to the Election Assistance Commission a
51 combined report of such information not later than ninety days after the date of each regularly
52 scheduled general election for federal office and in a standardized format developed by the
53 commission pursuant to the Help America Vote Act of 2002. The secretary shall make the report
54 available to the general public.

55 (5) As used in this section, the terms "absent uniformed services voter" and "overseas

56 voter" shall have the meaning prescribed in 42 U.S.C. 1973ff-6.

57 6. An application for an absentee ballot by a new resident, as defined in section 115.275,
58 shall be submitted in person by the applicant in the office of the election authority in the election
59 jurisdiction in which such applicant resides. The application shall be received by the election
60 authority no later than 7:00 p.m. on the day of the election. Such application shall be in the form
61 of an affidavit, executed in duplicate in the presence of the election authority or any authorized
62 officer of the election authority, and in substantially the following form:

63 "STATE OF.....

64 COUNTY OF....., ss.

65 I,....., do solemnly swear that:

66 (1) Before becoming a resident of this state, I resided at
67 (residence address) in (town, township,
68 village or city) of County in the state of.....;

69 (2) I moved to this state after the last day to register to vote in such general presidential
70 election and I am now residing in the county of....., state of Missouri;

71 (3) I believe I am entitled pursuant to the laws of this state to vote in the presidential
72 election to be held November, (year);

73 (4) I hereby make application for a presidential and vice presidential ballot. I have not
74 voted and shall not vote other than by this ballot at such election.

75 Signed

76 (Applicant)

77

78 (Residence Address)

79 Subscribed and sworn to before me this day of

80,

81 Signed

82 (Title and name of officer authorized to administer oaths)"

83 7. The election authority in whose office an application is filed pursuant to subsection
84 6 of this section shall immediately send a duplicate of such application to the appropriate official
85 of the state in which the new resident applicant last resided and shall file the original of such
86 application in its office.

87 8. An application for an absentee ballot by an intrastate new resident, as defined in
88 section 115.275, shall be made in person by the applicant in the office of the election authority
89 in the election jurisdiction in which such applicant resides. The application shall be received by
90 the election authority no later than 7:00 p.m. on the day of the election. Such application shall
91 be in the form of an affidavit, executed in duplicate in the presence of the election authority or

92 an authorized officer of the election authority, and in substantially the following form:

93 "STATE OF

94 COUNTY OF, ss.

95 I,, do solemnly swear that:

96 (1) Before becoming a resident of this election jurisdiction, I resided at
97 (residence address) in (town, township,
98 village or city) of county in the state of

99 (2) I moved to this election jurisdiction after the last day to register to vote in such
100 election;

101 (3) I believe I am entitled pursuant to the laws of this state to vote in the election to be
102 held (date);

103 (4) I hereby make application for an absentee ballot for candidates and issues on which
104 I am entitled to vote pursuant to the laws of this state. I have not voted and shall not vote other
105 than by this ballot at such election.

106 Signed

107 (Applicant)

108

109 (Residence Address)

110 Subscribed and sworn to before me this day of,

111 Signed

112 (Title and name of officer authorized to administer oaths)"

113 9. An application for an absentee ballot by an interstate former resident, as defined in
114 section 115.275, shall be received in the office of the election authority where the applicant was
115 formerly registered by 5:00 p.m. on the Wednesday immediately prior to the election, unless the
116 application is made in person by the applicant in the office of the election authority, in which
117 case such application shall be made no later than 7:00 p.m. on the day of the election.

115.283. 1. Each ballot envelope shall bear a statement on which the voter shall state
2 the voter's name, the voter's voting address, **and** the voter's mailing address [and the voter's
3 reason for voting an absentee ballot]. On the form, the voter shall also state under penalties of
4 perjury that the voter is qualified to vote in the election, that the voter has not previously voted
5 and will not vote again in the election, that the voter has personally marked the voter's ballot in
6 secret or supervised the marking of the voter's ballot if the voter is unable to mark it, that the
7 ballot has been placed in the ballot envelope and sealed by the voter or under the voter's
8 supervision if the voter is unable to seal it, and that all information contained in the statement
9 is true. In addition, any person providing assistance to the absentee voter shall include a
10 statement on the envelope identifying the person providing assistance under penalties of perjury.

11 Persons authorized to vote only for federal and statewide officers shall also state their former
12 Missouri residence.

13 2. The statement for persons voting absentee ballots who are registered voters shall be
14 in substantially the following form:

15 State of Missouri

16 County (City) of

17 I, (print name), a registered voter of County (City
18 of St. Louis, Kansas City), [declare under the penalties of perjury that I expect to be prevented
19 from going to the polls on election day due to (check one):

- 20 absence on election day from the jurisdiction of
- 21 the election authority in which I am registered;
- 22 incapacity or confinement due to illness or
- 23 physical disability, including caring for a person
- 24 who is incapacitated or confined due to illness or
- 25 disability;
- 26 religious belief or practice;
- 27 employment as an election authority or by an
- 28 election authority at a location other than my
- 29 polling place;
- 30 incarceration, although I have retained all the
- 31 necessary qualifications for voting.

32
33 I] hereby state under penalties of perjury that I am qualified to vote at this election; I have not
34 voted and will not vote other than by this ballot at this election. I further state that I marked the
35 enclosed ballot in secret or that I am blind, unable to read or write English, or physically
36 incapable of marking the ballot, and the person of my choosing indicated below marked the
37 ballot at my direction; all of the information on this statement is, to the best of my knowledge
38 and belief, true.

39

.....

40 Signature of Voter

Signature of Person

41 Assisting Voter
42 (if applicable)

43 Signed Subscribed and sworn to

44 Signed before me this day

45 Address of Voter of,

46

47
 48 Mailing addresses Signature of notary or
 49 (if different) other officer authorized
 50 to administer oaths

51 3. The statement for persons voting absentee ballots pursuant to the provisions of
 52 subsection 2, 3, 4 or 5 of section 115.277 without being registered shall be in substantially the
 53 following form:

54 State of Missouri
 55 County (City) of

56 I, (print name), declare under the penalties of perjury that I am a citizen of the
 57 United States and eighteen years of age or older. I am not adjudged incapacitated by any court
 58 of law, and if I have been convicted of a felony or of a misdemeanor connected with the right of
 59 suffrage, I have had the voting disabilities resulting from such conviction removed pursuant to
 60 law. I hereby state under penalties of perjury that I am qualified to vote at this election.

61 (1) I am a resident of the state of Missouri and (check one):

- 62 am a member of the U.S. armed forces in active service;
- 63 am an active member of the U.S. merchant marine;
- 64 am a civilian employee of the U.S. government working
 65 outside the United States;
- 66 am an active member of a religious or welfare
 67 organization assisting servicemen;
- 68 have been honorably discharged or terminated my service
 69 in one of the groups mentioned above within sixty days
 70 of this election;
- 71 am a spouse or dependent of one of the above;
- 72 am a registered voter in County and moved from that county to
 73 County,
 74 Missouri, after the last day to register to vote in
 75 this election.

76
 77 OR (check if applicable)

78 (2) I am an interstate former resident of Missouri and authorized to vote
 79 for presidential and vice presidential electors. I further state under penalties of perjury that I
 80 have not voted and will not vote other than by this ballot at this election; I marked the enclosed
 81 ballot in secret or am blind, unable to read or write English, or physically incapable of marking
 82 the ballot, and the person of my choosing indicated below marked the ballot at my direction; all

83 of the information on this statement is, to the best of my knowledge and belief, true.

84 Subscribed to and sworn

85 Signature of Voter before me this day

86 of,

87

88

89 Address of Voter Signature of notary or

90 other officer authorized

91 to administer oaths

92

93

94 Mailing Address

95 (if different)

96

97

98 Signature of Person Address of Last Missouri

99 Assisting Voter Residence (if applicable)

100 4. The statement for persons voting absentee ballots who are entitled to vote at the
101 election pursuant to the provisions of subsection 2 of section 115.137 shall be in substantially
102 the following form:

103 State of Missouri

104 County (City) of

105 I, (print name), [declare under the penalties of perjury that I expect to
106 be prevented from going to the polls on election day due to (check one):

107 absence on election day from the jurisdiction of the
108 election authority in which I am directed to vote;

109 incapacity or confinement due to illness or physical
110 disability, including caring for a person who is
111 incapacitated or confined due to illness or disability;

112 religious belief or practice;

113 employment as an election authority or by an election
114 authority at a location other than my polling place;

115 incarceration, although I have retained all the
116 necessary qualifications of voting.

117

118 I] hereby state under penalties of perjury that I own property in the district and am

119 qualified to vote at this election; I have not voted and will not vote other than by this ballot at
120 this election. I further state that I marked the enclosed ballot in secret or that I am blind, unable
121 to read and write English, or physically incapable of marking the ballot, and the person of my
122 choosing indicated below marked the ballot at my direction; all of the information on this
123 statement is, to the best of my knowledge and belief, true.

124 Subscribed and sworn to

125 Signature of Voter before me this

126 day of,

127

128

129 Address Signature of notary or
130 other officer authorized
131 to administer oaths

132

133 Signature of Person

134 Assisting Voter

135 (if applicable)

136 5. The statement for persons providing assistance to absentee voters shall be in
137 substantially the following form:

138

139 The voter needed assistance in marking the ballot and signing above, because of blindness, other
140 physical disability, or inability to read or to read English. I marked the ballot enclosed in this
141 envelope at the voter's direction, when I was alone with the voter, and I had no other
142 communication with the voter as to how he or she was to vote. The voter swore or affirmed the
143 voter affidavit above and I then signed the voter's name and completed the other voter
144 information above. Signed under the penalties of perjury.

145 Reason why voter needed assistance:

146 ASSISTING PERSON SIGN HERE

147 1. (signature of assisting person)

148 2. (assisting person's name printed)

149 3. (assisting person's residence)

150 4. (assisting person's home city or town).

151 6. Notwithstanding any other provision of this section, any resident of the state of
152 Missouri who resides outside the boundaries of the United States or who is on active duty with
153 the armed forces of the United States or members of their immediate family living with them or
154 persons who have declared themselves to be permanently disabled pursuant to section 115.284,

155 otherwise entitled to vote, shall not be required to obtain a notary seal or signature on his or her
156 absentee ballot.

157 7. [Notwithstanding any other provision of this section or section 115.291 to the
158 contrary, the subscription, signature and seal of a notary or other officer authorized to administer
159 oaths shall not be required on any ballot, ballot envelope, or statement required by this section
160 if the reason for the voter voting absentee is due to the reasons established pursuant to
161 subdivision (2) of subsection 1 of section 115.277.

162 8.] No notary shall charge or collect a fee for notarizing the signature on any absentee
163 ballot or absentee voter registration.

164 [9.] **8.** A notary public who charges more than the maximum fee specified or who
165 charges or collects a fee for notarizing the signature on any absentee ballot or absentee voter
166 registration is guilty of official misconduct.

115.290. Any person registered by mail under the provisions of section 115.159 and
2 voting by absentee ballot shall provide an affidavit subscribed and sworn to as provided in
3 section 115.291 [regardless of the cause for requesting such ballot] unless the voter is exempt
4 from such requirement under section 115.284 or section 1973ee-3, title 42, United States Code.