

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 159

Short Title: No Excuse Absentee Voting.

(Public)

Sponsors: Representatives Lemmond; and Nichols.

Referred to: Judiciary I.

February 15, 1993

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE REQUIREMENT FOR AN EXCUSE FOR OBTAINING AN ABSENTEE BALLOT, EXCEPT ALLOWING ILLNESS OR DISABILITY OCCURRING AFTER FIVE O'CLOCK P.M. ON THE TUESDAY BEFORE THE ELECTION TO CONTINUE TO BE AN ADDITIONAL REASON.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-226(a) reads as rewritten:

"(a) Who May Vote Absentee Ballot; Generally. - Any qualified voter of the State may vote by absentee ballot in a statewide primary, general, or special election on constitutional amendments, referenda or bond proposals, and any qualified voter of a county is authorized to vote by absentee ballot in any primary or election conducted by the county board of elections, in the manner provided in this Article if:

- (1) He expects to not be present at the voting place to vote in person ~~be absent from the county in which he is registered during the entire period that the polls are open~~ on the day of the specified election in which he desires to vote; or
- (2) He is unable to be present at the voting place to vote in person on the day of the specified election in which he desires to vote because of his sickness or other physical disability where such illness or other physical disability arises after 5:00 p.m. on the Tuesday preceding the election but before 5:00 p.m. on the day prior to the date of the specified election.; ~~or~~
- (3) ~~He is incarcerated, whether in his county of residence or elsewhere, shall be entitled to vote by absentee ballot in the county of his~~

1 residence in any election, specified herein, in which he otherwise
 2 would be entitled to vote. Absentee voting shall be in the same manner
 3 as provided in this Article. The chief custodian or superintendent of
 4 the institution or other place of confinement shall certify that the
 5 applicant is not a felon, and the certification shall be as prescribed by
 6 the State Board of Elections. The State Board of Elections is
 7 authorized to prescribe procedures to carry out the intent and purpose
 8 of this subsection;

- 9 (4) ~~He is an employee of the county board of elections and his assigned
 10 duties on the day of the election will cause him to be unable to be
 11 present at the voting place to vote in person and provided such
 12 employee has his application witnessed by the chairman of the county
 13 board of elections."~~

14 Sec. 2. G.S. 163-227 reads as rewritten:

15 **"§ 163-227. State Board to prescribe form of application for absentee ballots;
 16 county to secure.**

17 (a) Applications for Absentee Ballots Generally. – A voter falling in any one of
 18 the categories defined in G.S. 163-226, 163-226.1 or 163-226.2 may apply for absentee
 19 ballots not earlier than 50 days prior to the statewide, county or municipal election in
 20 which he seeks to vote and not later than 5:00 P.M. on the Tuesday before that election.
 21 Subject to all other provisions contained in this Article, a voter applying for an absentee
 22 ballot shall complete the standard application form to be secured by the county board of
 23 elections, as designed and prescribed by the State Board of Elections. The form shall
 24 contain lines to be checked off by each of the kinds of voters specified below:

- 25 (1) ~~A voter expecting to be absent from the county of his residence all day
 26 expecting to not be present at the voting place to vote in person on the
 27 day of the specified election. (G.S. 163-226(a)(1)).~~
- 28 (2) A voter who is unable to be present at the voting place to vote in
 29 person on the day of the specified election because of his sickness or
 30 other physical disability occurring after 5:00 p.m. on the Tuesday
 31 preceding the election but before 5:00 P.M. on the day prior to the date
 32 of the specified election. (G.S. 163-226(a)(2)).
- 33 (3) Repealed by Session Laws 1991, c. 727, s. 6.1.
- 34 (4) A voter expecting to ~~be absent from the county~~ not be present at the
 35 voting place to vote in person, or due to emergency disability will be
 36 unable to vote in person, ~~or a person who qualifies under G.S. 163-~~
 37 ~~226(a)(4),~~ and who, in lieu of making application by mail, wishes to
 38 apply in person and receive a ballot which he may immediately vote in
 39 the office of the county board of elections.

40 (b) Types of Applications; Instructions. –

- 41 (1) ~~Expected Absence from County~~ Not To Be Present at the Voting Place
 42 on Election Day. – A voter expected to be absent from the county not
 43 be present at the voting place in which registered during the entire
 44 period that the polls will be open on primary or general election day,

1 or a near relative, or verifiable legal guardian, shall make written
2 application for absentee ballots to the chairman of the board of
3 elections of the county in which the voter is registered not earlier than
4 50 days nor later than 5:00 P.M. on the Tuesday before the election.
5 The application shall be submitted in the form set out in this
6 subdivision upon a copy which shall be furnished the voter or a near
7 relative by the chairman of the county board of elections.

8 The applicant shall sign his application personally, or it shall be
9 signed by a near relative or verifiable legal guardian. The application
10 shall be signed in the presence of a witness, who shall sign his name in
11 the place provided on the form. The application form when properly
12 filled out shall be transmitted by mail or delivered in person by the
13 applicant or a near relative to the chairman or the supervisor of
14 elections of the county board of elections.

- 15 (2) Absence for Sickness or Physical Disability Occurring after 5:00 p.m.
16 on the Tuesday Prior to the Election but before 5:00 P.M. on the day
17 prior to the Primary or General Election. – A voter expecting to be
18 unable to go to the voting place to vote in person on primary or general
19 election day because of his sickness or other physical disability
20 occurring after 5:00 p.m. on the Tuesday preceding the election but
21 before 5:00 p.m. on the day prior to the date of the specified election,
22 or his near relative or verifiable legal guardian, shall make written
23 application for absentee ballots to the chairman of the board of
24 elections of the county in which the voter is registered not earlier than
25 50 days-5:00 p.m. on the Tuesday nor later than 5:00 P.M. on the day
26 before the election. The application shall be submitted in the form set
27 out in this subdivision upon a copy which shall be furnished the voter
28 or a near relative or verifiable legal guardian by the chairman of the
29 county board of elections.

30 The application shall be signed by the voter personally, or it shall
31 be signed by a near relative or verifiable legal guardian. The
32 application shall be signed in the presence of a witness, who shall sign
33 his name in the place provided on the form.

34 The application form, when properly filled out, shall be transmitted
35 by mail or delivered in person by the applicant or a near relative or
36 verifiable legal guardian to the chairman or supervisor of elections of
37 the county board of elections of the county in which the applicant is
38 registered.

- 39 (3) Repealed by Session Laws 1991, c. 727, s. 6.1.
40 (4) 'One-Stop' Voting Procedure, in Office of the County Board of
41 Elections. – A voter falling in the category specified in G.S. 163-227.2
42 may execute an application form and proceed to vote his absentee
43 ballot in the office of the county board of elections only.

1 (c) Application Forms Issued by Chairman of County Board of Elections. – The
2 chairman of the county board of elections shall be sole custodian of all absentee ballot
3 application forms, but he, the secretary of the board and the supervisor of elections of
4 the board, in accordance with one of the following two procedures, shall issue and
5 deliver a single application form, upon request, to a person authorized to sign such an
6 application under the provisions of this section:

7 (1) The chairman, secretary or supervisor of elections may deliver the
8 form to a voter personally or to his near relative or verifiable legal
9 guardian at the office of the county board of elections for the voter's
10 own use; or

11 (2) The chairman, secretary or supervisor of elections may mail the form
12 to a voter for his own use upon receipt of a written request from the
13 voter or his near relative or verifiable legal guardian.

14 At the time he issues an application form, the chairman, secretary
15 or supervisor of elections of the county board of elections shall number
16 it and write the name of the voter in the space provided therefor at the
17 top of the form. At the same time the chairman, secretary or supervisor
18 of elections shall insert the name of the voter and the number assigned
19 his application in the register of absentee ballot applications and
20 ballots issued provided for in G.S. 163-228. If the application is
21 requested by the voter's near relative, or verifiable legal guardian, the
22 chairman, secretary or supervisor of elections also shall insert that
23 person's name in the register after the name of the voter.

24 The chairman, secretary or supervisor of elections shall issue only
25 one application form to a voter or his near relative or verifiable legal
26 guardian unless a form previously issued is returned to the chairman,
27 secretary or supervisor of elections and marked 'Void' by him. In such
28 a situation, the chairman, secretary or supervisor of elections may
29 issue another application form to the voter or a near relative or
30 verifiable legal guardian, but he shall retain the voided application
31 form in the board's records. If the application is requested by the
32 voter's near relative or verifiable legal guardian, the chairman,
33 secretary or supervisor of elections shall write the name of the near
34 relative or verifiable legal guardian on the index of near relatives or
35 verifiable legal guardians, applying for applications for absentee
36 ballots; the index shall be in such form as may be prescribed or
37 approved by the State Board of Elections; a separate index shall be
38 maintained for each primary, general or special election in which
39 absentee voting is allowed.

40 (3) Applications or Absentee Ballots Transmitted by Mail or in Person. –
41 An application for absentee ballots shall be made and signed only by
42 the voter desiring to use them or the voter's near relative or verifiable
43 legal guardian and shall be valid only when transmitted to the
44 chairman or supervisor of elections of the county board of elections by

1 mail or delivered in person by the voter or his near relative or legal
2 verifiable guardian.

3 (4) Who Is Authorized to Request Applications for Absentee Ballots. – A
4 voter may personally request an application for absentee ballots or
5 may cause such request to be made through a near relative or verifiable
6 legal guardian. For the purpose of this Article, 'near relative' means
7 spouse, brother, sister, parent, grandparent, child, or grandchild.

8 (5) The form of application for persons applying to vote in a primary
9 under the provisions of this section shall be as designed and prescribed
10 by the State Board of Elections. No voter shall be furnished ballots for
11 voting in a primary except the ballots for candidates for nomination in
12 the primary of the political party with which he is affiliated at the time
13 he makes application for absentee ballots. The official registration
14 records of the county in which the voter is registered shall be proof of
15 the party, if any, with which the voter is affiliated.

16 (6) The county board of elections shall cause to be stamped or printed on
17 the face of each application for absentee ballots the following legend,
18 and the blank space in the legend to be completed:

19 'This application is issued for absentee ballots to be voted in the
20 _____ (primary or general or special election) to be held in
21 _____ County on the _____ day of _____, 19
22 ____.' The county board of elections shall not issue any absentee
23 ballots on the basis of any application that does not bear the completed
24 legend.

25 (7) No applications shall be issued earlier than 50 days prior to the
26 election in which the voter wishes to vote. Nothing herein shall
27 prohibit the county board of elections from receiving written requests
28 for applications earlier than 50 days prior to the election but such
29 applications shall not be mailed or issued to the voter in person earlier
30 than 50 days prior to the election.

31 (8) Applications for absentee ballots shall be issued only by mail or in the
32 office of the county board of elections to the voter or a near relative or
33 verifiable legal guardian authorized to make application. No election
34 official shall issue applications for absentee ballots except in
35 compliance with the provisions stated herein."

36 Sec. 3. G.S. 163-227.2(a) reads as rewritten:

37 "(a) A person expecting to ~~be absent from the county~~ not be present at the polling
38 place in which he is registered during the entire period that the polls are open on the day
39 of an election in which absentee ballots are authorized or is eligible under G.S. 163-
40 226(a)(2) ~~or 163-226(a)(4)~~ may request an application for absentee ballots, complete the
41 application, receive the absentee ballots, vote and deliver them sealed in a container-
42 return envelope to the county board of elections in the county in which he is registered
43 under the provisions of this section."

44 Sec. 4. G.S. 163-229(b)(2) reads as rewritten:

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"(2) On the other side shall be printed the return address of the chairman of the county board of elections and the following certificate:

'Certificate of Absentee or Sick Voter

State of

County ofI,, do certify that I am a resident and registered voter in precinct, County, North Carolina; that on the day of an election,, 19 (check whichever of the following statements is correct.)

[] I will be ~~absent from the county in which I reside~~not be present at the polling place in which I am registered during the entire time the polls will be open on election day.

[] Due to sickness or physical disability, occurring after 5:00 p.m. on the Tuesday before the election but before 5:00 p.m. on the day before the election, or incarceration as a misdemeanor, I will be unable to travel to the voting place in the precinct in which I reside.

I further certify that I made application for absentee ballots, and that I marked the ballots enclosed herein, or that they were marked for me in my presence and according to my instructions. I understand it is a felony to falsely sign this certificate.

(Signature of voter)

Signature of Witness #1

Signature of Witness #2

Address of Witness #1

Address of Witness #2"

Sec. 5. This act becomes effective with respect to elections occurring on or after January 1, 1994.