

By: Senator(s) Little, Burton

To: Elections

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2067

1 AN ACT TO REQUIRE PERSONS WHO APPEAR TO VOTE IN PERSON AT A
2 POLLING PLACE OR THE REGISTRAR'S OFFICE TO IDENTIFY THEMSELVES BY
3 PRESENTING CERTAIN TYPES OF IDENTIFICATION TO AN ELECTION MANAGER
4 OR THE REGISTRAR BEFORE THEY ARE ALLOWED TO VOTE; TO AMEND
5 SECTIONS 23-15-631 AND 23-15-639, MISSISSIPPI CODE OF 1972, TO
6 AUTHORIZE THE SECRETARY OF STATE TO TAKE CERTAIN ACTION TO ENSURE
7 THAT THE IDENTIFICATION REQUIREMENTS OF THE HELP AMERICA VOTE ACT
8 OF 2002 ARE MET IN REGARD TO ABSENTEE BALLOTS; TO AMEND SECTIONS
9 23-15-11, 23-15-541 AND 23-15-719, MISSISSIPPI CODE OF 1972, IN
10 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 **SECTION 1.** (1) Each person who shall appear to vote in
13 person at a polling place or the registrar's office shall be
14 required to identify himself or herself to an election manager or
15 the registrar by presenting current and valid photo identification
16 or a copy of a current utility bill, bank statement, government
17 check, paycheck or a government document that shows the name and
18 address of the person before such person shall be allowed to vote.

19 (2) The identification required by subsection (1) of this
20 section shall include, but not be limited to, the following:

- 21 (a) A current and valid Mississippi driver's license;
- 22 (b) A current and valid identification card issued by a
23 branch, department, agency or entity of the State of Mississippi;
- 24 (c) A current and valid United States passport;
- 25 (d) A current and valid employee identification card
26 containing a photograph of the elector and issued by any branch,
27 department, agency or entity of the United States government, the
28 State of Mississippi, or any county, municipality, board,
29 authority or other entity of this state;

30 (e) A current and valid employee identification card
31 containing a photograph of the elector and issued by any employer
32 of the elector in the ordinary course of the employer's business;

33 (f) A current and valid student identification card
34 containing a photograph of the elector from any public or private
35 college, university, or postgraduate, technical or professional
36 school located within the State of Mississippi;

37 (g) A current and valid Mississippi license to carry a
38 pistol or revolver;

39 (h) A current and valid pilot's license issued by the
40 Federal Aviation Administration or other authorized agency of the
41 United States;

42 (i) A current and valid United States military
43 identification card; and

44 (j) Official voter registration card.

45 (3) (a) Any person who utilizes the provision of this
46 section to intimidate a voter or to prevent from voting a person
47 who is otherwise qualified to vote shall be guilty of a
48 misdemeanor and, upon conviction, shall be punished by
49 imprisonment for not more than six (6) months or fine in an amount
50 not to exceed One Thousand Dollars (\$1,000.00), or both.

51 (b) Any person who utilizes the provisions of this
52 section to intimidate more than one (1) voter or to prevent from
53 voting more than one (1) person who is otherwise qualified to
54 vote, shall, upon conviction, be sentenced to pay a fine of not
55 less than Five Hundred Dollars (\$500.00) nor more than Five
56 Thousand Dollars (\$5,000.00), or by imprisonment in the county
57 jail for no more than one (1) year, or both, or by being sentenced
58 to the State Penitentiary for not less than one (1) year nor more
59 than five (5) years.

60 **SECTION 2.** Section 23-15-631, Mississippi Code of 1972, is
61 amended as follows:

62 23-15-631. (1) The registrar shall enclose with each ballot
63 provided to an absent elector separate printed instructions
64 furnished by him containing the following:

65 (a) All absentee voters, excepting those with temporary
66 or permanent physical disabilities or those who are sixty-five
67 (65) years of age or older, who mark their ballots in the county
68 of the residence shall use the registrar of that county as the
69 witness. Said absentee voter shall come to the office of the
70 registrar and neither the registrar nor his deputy shall be
71 required to go out of the registrar's office to serve as an
72 attesting witness.

73 (b) Upon receipt of the enclosed ballot, you will not
74 mark same except in view or sight of the attesting witness. In
75 the sight or view of the attesting witness, mark the ballot
76 according to instructions.

77 (c) After marking the ballot, fill out and sign the
78 "ELECTOR'S CERTIFICATE" on back of the envelope so that the
79 signature shall be across the flap of the envelope so as to insure
80 the integrity of the ballot. All absent electors shall have the
81 attesting witness sign the "ATTESTING WITNESS CERTIFICATE" across
82 the flap on back of the envelope. Place necessary postage on the
83 envelope and deposit it in the post office or some government
84 receptacle provided for deposit of mail so that the absent
85 elector's ballot, excepting presidential absentee ballots, will
86 reach the registrar in which your precinct is located not later
87 than 5:00 p.m. on the day preceding the date of the election, or
88 by personally delivering such ballot to the registrar's office not
89 later than 12:00 noon on the Saturday immediately preceding
90 elections held on Tuesday, the Thursday immediately preceding
91 elections held on Saturday, and the second day immediately
92 preceding elections held on other days.

93 Any notary public, United States postmaster, assistant United
94 States postmaster, United States postal supervisor, clerk in

95 charge of a contract postal station, or any officer having
96 authority to administer an oath or take an acknowledgment may be
97 an attesting witness; provided, however, that in the case of an
98 absent elector who is temporarily or permanently physically
99 disabled, the attesting witness may be any person eighteen (18)
100 years of age or older and such person is not required to have the
101 authority to administer an oath. If a postmaster, assistant
102 postmaster, postal supervisor, or clerk in charge of a contract
103 postal station acts as an attesting witness, his signature on the
104 elector's certificate must be authenticated by the cancellation
105 stamp of their respective post offices. If one or the other
106 officers herein named acts as attesting witness, his signature on
107 the elector's certificate, together with his title and address,
108 but no seal, shall be required. Any affidavits made by an absent
109 elector who is in the Armed Forces may be executed before a
110 commissioned officer, warrant officer, or noncommissioned officer
111 not lower in grade than sergeant rating or any person authorized
112 to administer oaths.

113 (d) When the application accompanies the ballot it
114 shall not be returned in the same envelope as the ballot but shall
115 be returned in a separate preaddressed envelope provided by the
116 registrar.

117 (e) A person who is a candidate for public office may
118 not be an attesting witness for any absentee ballot upon which the
119 person's name appears.

120 (f) Any voter casting an absentee ballot who declares
121 that he requires assistance to vote by reason of blindness,
122 temporary or permanent physical disability or inability to read or
123 write, shall be entitled to receive assistance in the marking of
124 his absentee ballot and in completing the affidavit on the
125 absentee ballot envelope. The voter may be given assistance by
126 anyone of the voter's choice other than a candidate whose name
127 appears on the absentee ballot being marked, or the voter's

128 employer, or agent of that employer. In order to ensure the
129 integrity of the ballot, any person who provides assistance to an
130 absentee voter shall be required to sign and complete the
131 "Certificate of Person Providing Voter Assistance" on the absentee
132 ballot envelope.

133 (2) The Secretary of State shall prepare instructions on how
134 absent voters may comply with the identification requirements of
135 the Help America Vote Act of 2002, which shall be provided to the
136 registrar and enclosed with each absentee ballot.

137 (3) The foregoing instructions required to be provided by
138 the registrar to the elector shall also constitute the substantive
139 law pertaining to the handling of absentee ballots by the elector
140 and registrar.

141 **SECTION 3.** Section 23-15-639, Mississippi Code of 1972, is
142 amended as follows:

143 23-15-639. (1) At the close of the regular balloting and at
144 the close of the polls, the election managers of each voting
145 precinct shall first take the envelopes containing the absentee
146 ballots of such electors from the box, and the name, address and
147 precinct inscribed on each such envelope shall be announced by the
148 election managers. The signature on the application shall then be
149 compared with the signature on the back of the envelope. If it
150 corresponds and the affidavit, if one is required, is sufficient
151 and the election managers find that the applicant is a registered
152 and qualified voter or otherwise qualified to vote, and that he
153 has not appeared in person and voted at such election, the
154 envelope shall then be opened and the ballot removed from the
155 envelope, without its being unfolded, or permitted to be unfolded
156 or examined. Having observed and found the ballot to be regular
157 as far as can be observed from its official endorsement, the
158 election managers shall deposit it in the ballot box with the
159 other ballots before counting any ballots and enter the voter's
160 name in the receipt book provided for that purpose and mark

161 "VOTED" in the pollbook or poll list as if he had been present and
162 voted in person. If voting machines are used, all absentee
163 ballots shall be placed in the ballot box before any ballots are
164 counted, and the election managers in each precinct shall
165 immediately count such absentee ballots and add them to the votes
166 cast in the voting machine or device.

167 (2) The election managers shall also take such action as may
168 be prescribed by the Secretary of State to ensure compliance with
169 the identification requirements of the Help America Vote Act of
170 2002.

171 **SECTION 4.** Section 23-15-11, Mississippi Code of 1972, is
172 amended as follows:

173 23-15-11. Every inhabitant of this state, except idiots and
174 insane persons, who is a citizen of the United States of America,
175 eighteen (18) years old and upwards, who has resided in this state
176 for thirty (30) days and for thirty (30) days in the county in
177 which he offers to vote, and for thirty (30) days in the
178 incorporated city or town in which he offers to vote, and who
179 shall have been duly registered as an elector pursuant to Section
180 23-15-33, and who has never been convicted of any crime listed in
181 Section 241, Mississippi Constitution of 1890, shall be a
182 qualified elector in and for the county, municipality and voting
183 precinct of his residence, and shall be entitled to vote at any
184 election upon compliance with Section 1 of Senate Bill No. 2067,
185 2005 Regular Session. Any person who will be eighteen (18) years
186 of age or older on or before the date of the general election and
187 who is duly registered to vote not less than thirty (30) days
188 prior to the primary election associated with such general
189 election, may vote in such primary election even though such
190 person has not reached his or her eighteenth birthday at the time
191 such person offers to vote at such primary election. No others
192 than those above included shall be entitled, or shall be allowed,
193 to vote at any election.

194 **SECTION 5.** Section 23-15-541, Mississippi Code of 1972, is
195 amended as follows:

196 23-15-541. At all elections, the polls shall be opened at
197 seven o'clock in the morning and be kept open until seven o'clock
198 in the evening and no longer. Upon the opening of the polls, and
199 not before, the managers of the election shall designate two (2)
200 of their number, other than the manager theretofore designated to
201 receive the blank ballots, who shall thereupon be known
202 respectively as the initialing manager and the alternate
203 initialing manager. The alternate initialing manager, in the
204 absence of the initialing manager, shall perform all of the duties
205 and undertake all of the responsibilities of the initialing
206 manager. When any person entitled to vote shall appear to vote,
207 the managers shall identify the voter by requiring the voter to
208 submit identification as required by Section 1 of Senate Bill No.
209 2067, 2005 Regular Session, and then such person shall * * * sign
210 his name in a receipt book or booklet provided for that purpose
211 and to be used at that election only and said receipt book or
212 booklet shall be used in lieu of the list of voters who have voted
213 formerly made by the managers or clerks; whereupon and not before,
214 the initialing manager or, in his absence, the alternate
215 initialing manager shall indorse his initials on the back of an
216 official blank ballot, prepared in accordance with law, and at
217 such place on the back of the ballot that the initials may be seen
218 after the ballot has been marked and folded, and when so indorsed
219 he shall deliver it to the voter, which ballot the voter shall
220 mark in the manner provided by law, which when done the voter
221 shall deliver the same to the initialing manager or, in his
222 absence, to the alternate initialing manager, in the presence of
223 the others, and the manager shall see that the ballot so delivered
224 bears on the back thereof the genuine initials of the initialing
225 manager, or alternate initialing manager, and if so, but not
226 otherwise, the ballot shall be put into the ballot box; and when

227 so done one (1) of the managers or a duly appointed clerk shall
228 make the proper entry on the pollbook. If the voter is unable to
229 write his name on the receipt book, a manager or clerk shall note
230 on the back of the ballot that it was receipted for by his
231 assistance.

232 **SECTION 6.** Section 23-15-719, Mississippi Code of 1972, is
233 amended as follows:

234 23-15-719. (1) Immediately upon completion of an
235 application filed pursuant to the provisions of paragraph (a) of
236 Section 23-15-715, the registrar shall deliver the necessary
237 ballots to the applicant. The registrar shall identify the
238 applicant by requiring him to present identification as required
239 by Section 1 of Senate Bill No. 2067, 2005 Regular Session, and
240 shall then deliver the ballots to the applicant by mail or to the
241 applicant in the registrar's office. The registrar shall not
242 personally hand deliver ballots to voters, unless he delivers the
243 ballots in the office of the registrar. The elector shall fill in
244 his ballot in secret. After the applicant has properly marked the
245 ballot and properly folded it, he shall deposit it in the envelope
246 furnished him by the registrar.

247 After he has sealed the envelope, he shall subscribe and
248 swear to an affidavit in the following form, which shall be
249 printed on the back of the envelope containing the applicant's
250 ballot:

251 "STATE OF MISSISSIPPI

252 COUNTY OF _____

253 I, _____, do solemnly swear that this envelope contains
254 the ballot marked by me indicating my choice of the candidates or
255 propositions to be submitted at the election to be held on the ____
256 day of _____, 2____, and I hereby authorize the registrar to
257 place this envelope in the ballot box on my behalf, and I further
258 authorize the election managers to open this envelope and place my
259 ballot among the other ballots cast before such ballots are

260 counted, and record my name on the poll list as if I were present
261 in person and voted.

262 I further swear that I marked the enclosed ballot in secret.

263 _____

264 (Signature of voter)

265 SWORN TO AND SUBSCRIBED before me, _____, this the ____

266 day of _____, 2____.

267 (Registrar) _____

268 (Registrar)"

269 After the completion of the requirements of this section, the
270 elector shall deliver the envelope containing the ballot to the
271 registrar.

272 (2) If the voter has received assistance in marking his
273 ballot, the person providing the assistance shall complete the
274 following form which shall be printed on the back of the envelope
275 containing the applicant's ballot:

276 "CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

277 (To be completed only if the voter has received assistance in
278 marking the enclosed ballot.) I hereby certify that the
279 above-named voter declared to me that he or she is blind,
280 temporarily or permanently physically disabled, or cannot read or
281 write, and that the voter requested that I assist the voter in
282 marking the enclosed absentee ballot. I hereby certify that the
283 ballot preferences on the enclosed ballot are those communicated
284 by the voter to me, and that I have marked the enclosed ballot in
285 accordance with the voter's instructions.

286 _____

287 Signature of person providing assistance

288 _____

289 Printed name of person providing assistance

290 _____

291 Address of person providing assistance

292 _____

293 Date and time assistance provided

294

295 Family relationship to voter (if any)"

296 (3) The envelope used pursuant to this section shall not
297 contain the form prescribed by Section 23-15-635.

298 **SECTION 7.** The Attorney General of the State of Mississippi
299 shall submit this act, immediately upon approval by the Governor,
300 or upon approval by the Legislature subsequent to a veto, to the
301 Attorney General of the United States or to the United States
302 District Court for the District of Columbia in accordance with the
303 provisions of the Voting Rights Act of 1965, as amended and
304 extended.

305 **SECTION 8.** This act shall take effect and be in force from
306 and after the date it is effectuated under Section 5 of the Voting
307 Rights Act of 1965, as amended and extended.