

By: Senator(s) Burton

To: Elections

SENATE BILL NO. 2309

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  
 16 identification, a government document that shows the name and  
 17 address of the person or, a social security card that shows the  
 18 name 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 a fine in an  
50 amount 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. \_\_\_\_\_,  
185 2006 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 (18th) birthday at  
191 the time such person offers to vote at such primary election. No  
192 others than those above included shall be entitled, or shall be  
193 allowed, 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 \_\_\_\_, 2006 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. \_\_\_\_\_, 2006 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.