

By: Senator(s) Fillingane

To: Elections

SENATE BILL NO. 2700

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 CURRENT AND VALID PHOTO IDENTIFICATION TO AN ELECTION
4 MANAGER 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 before such person shall be allowed to vote.

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

19 (a) A current and valid Mississippi driver's license;

20 (b) A current and valid identification card containing
21 a photograph of the elector issued by a branch, department, agency
22 or entity of the State of Mississippi;

23 (c) A current and valid United States passport;

24 (d) A current and valid employee identification card
25 containing a photograph of the elector and issued by any branch,
26 department, agency or entity of the United States government, the
27 State of Mississippi, or any county, municipality, board,
28 authority or other entity of this state;

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

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

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

38 (3) Any person who utilizes the provisions of this section
39 to intimidate a voter, or to prevent from voting a person who is
40 otherwise qualified to vote, shall, upon conviction, be sentenced
41 to pay a fine of not less than Five Thousand Dollars (\$5,000.00),
42 or by imprisonment for not less than one (1) year nor more than
43 five (5) years, or both.

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

46 23-15-631. (1) The registrar shall enclose with each ballot
47 provided to an absent elector separate printed instructions
48 furnished by him containing the following:

49 (a) All absentee voters, excepting those with temporary
50 or permanent physical disabilities or those who are sixty-five
51 (65) years of age or older, who mark their ballots in the county
52 of the residence shall use the registrar of that county as the
53 witness. The absentee voter shall come to the office of the
54 registrar and neither the registrar nor his deputy shall be
55 required to go out of the registrar's office to serve as an
56 attesting witness.

57 (b) Upon receipt of the enclosed ballot, you will not
58 mark the ballot except in view or sight of the attesting witness.
59 In the sight or view of the attesting witness, mark the ballot
60 according to instructions.

61 (c) After marking the ballot, fill out and sign the
62 "ELECTOR'S CERTIFICATE" on back of the envelope so that the
63 signature shall be across the flap of the envelope so as to insure
64 the integrity of the ballot. All absent electors shall have the

65 attesting witness sign the "ATTESTING WITNESS CERTIFICATE" across
66 the flap on back of the envelope. Place necessary postage on the
67 envelope and deposit it in the post office or some government
68 receptacle provided for deposit of mail so that the absent
69 elector's ballot, excepting presidential absentee ballots, will
70 reach the registrar in which your precinct is located not later
71 than 5:00 p.m. on the day preceding the date of the election.

72 Any notary public, United States postmaster, assistant United
73 States postmaster, United States postal supervisor, clerk in
74 charge of a contract postal station, or any officer having
75 authority to administer an oath or take an acknowledgment may be
76 an attesting witness; provided, however, that in the case of an
77 absent elector who is temporarily or permanently physically
78 disabled, the attesting witness may be any person eighteen (18)
79 years of age or older and such person is not required to have the
80 authority to administer an oath. If a postmaster, assistant
81 postmaster, postal supervisor, or clerk in charge of a contract
82 postal station acts as an attesting witness, his signature on the
83 elector's certificate must be authenticated by the cancellation
84 stamp of their respective post offices. If one or the other
85 officers herein named acts as attesting witness, his signature on
86 the elector's certificate, together with his title and address,
87 but no seal, shall be required. Any affidavits made by an absent
88 elector who is in the Armed Forces may be executed before a
89 commissioned officer, warrant officer, or noncommissioned officer
90 not lower in grade than sergeant rating or any person authorized
91 to administer oaths.

92 (d) When the application accompanies the ballot it
93 shall not be returned in the same envelope as the ballot but shall
94 be returned in a separate preaddressed envelope provided by the
95 registrar.

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

99 (f) Any voter casting an absentee ballot who declares
100 that he requires assistance to vote by reason of blindness,
101 temporary or permanent physical disability or inability to read or
102 write, shall be entitled to receive assistance in the marking of
103 his absentee ballot and in completing the affidavit on the
104 absentee ballot envelope. The voter may be given assistance by
105 anyone of the voter's choice other than a candidate whose name
106 appears on the absentee ballot being marked, or the voter's
107 employer, or agent of that employer. In order to ensure the
108 integrity of the ballot, any person who provides assistance to an
109 absentee voter shall be required to sign and complete the
110 "Certificate of Person Providing Voter Assistance" on the absentee
111 ballot envelope.

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

116 (3) The foregoing instructions required to be provided by
117 the registrar to the elector shall also constitute the substantive
118 law pertaining to the handling of absentee ballots by the elector
119 and registrar.

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

122 23-15-639. (1) In elections in which direct recording
123 electronic voting systems are not utilized, the examination and
124 counting of absentee ballots shall be conducted as follows:

125 (a) At the close of the regular balloting and at the
126 close of the polls, the election managers of each voting precinct
127 shall first take the envelopes containing the absentee ballots of
128 such electors from the box, and the name, address and precinct

129 inscribed on each envelope shall be announced by the election
130 managers.

131 (b) The signature on the application shall then be
132 compared with the signature on the back of the envelope. If it
133 corresponds and the affidavit, if one is required, is sufficient
134 and the election managers find that the applicant is a registered
135 and qualified voter or otherwise qualified to vote, and that he
136 has not appeared in person and voted at the election, the envelope
137 shall then be opened and the ballot removed from the envelope,
138 without its being unfolded, or permitted to be unfolded or
139 examined.

140 (c) Having observed and found the ballot to be regular
141 as far as can be observed from its official endorsement, the
142 election managers shall deposit it in the ballot box with the
143 other ballots before counting any ballots and enter the voter's
144 name in the receipt book provided for that purpose and mark
145 "VOTED" in the pollbook or poll list as if he had been present and
146 voted in person. If voting machines are used, all absentee
147 ballots shall be placed in the ballot box before any ballots are
148 counted, and the election managers in each precinct shall
149 immediately count such absentee ballots and add them to the votes
150 cast in the voting machine or device.

151 (2) In elections in which direct recording electronic voting
152 systems are utilized, the examination and counting of absentee
153 ballots shall be conducted as follows:

154 (a) At the close of the regular balloting and at the
155 close of the polls, the election managers of each voting precinct
156 shall first take the envelopes containing the absentee ballots of
157 such electors from the box, and the name, address and precinct
158 inscribed on each envelope shall be announced by the election
159 managers.

160 (b) The signature on the application shall then be
161 compared with the signature on the back of the envelope. If it

162 corresponds and the affidavit, if one is required, is sufficient
163 and the election managers find that the applicant is a registered
164 and qualified voter or otherwise qualified to vote, and that he
165 has not appeared in person and voted at the election, the unopened
166 envelope shall be marked "ACCEPTED" and the election managers
167 shall enter the voter's name in the receipt book provided for that
168 purpose and mark "VOTED" in the pollbook or poll list as if he had
169 been present and voted in person.

170 (c) All absentee ballot envelopes shall then be placed
171 in the secure ballot transfer case and delivered to the officials
172 in charge of conducting the election at the central tabulation
173 point of the county. The official in charge of the election shall
174 open the envelopes marked "ACCEPTED" and remove the ballot from
175 the envelope.

176 (d) Having observed the ballot to be regular as far as
177 can be observed from its official endorsement, the absentee ballot
178 shall be processed through the central optical scanner. The
179 scanned totals shall then be combined with the direct recording
180 electronic voting system totals for the unofficial vote count.

181 When there is a conflict between an electronic voting system
182 and a paper record, then there is a rebuttable presumption that
183 the paper record is correct.

184 (3) The election managers shall also take such action as may
185 be prescribed by the Secretary of State to ensure compliance with
186 the identification requirements of the Help America Vote Act of
187 2002.

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

190 23-15-11. Every inhabitant of this state, except idiots and
191 insane persons, who is a citizen of the United States of America,
192 eighteen (18) years old and upwards, who has resided in this state
193 for thirty (30) days and for thirty (30) days in the county in
194 which he offers to vote, and for thirty (30) days in the

195 incorporated city or town in which he offers to vote, and who
196 shall have been duly registered as an elector pursuant to Section
197 23-15-33, and who has never been convicted of any crime listed in
198 Section 241, Mississippi Constitution of 1890, shall be a
199 qualified elector in and for the county, municipality and voting
200 precinct of his residence, and shall be entitled to vote at any
201 election upon compliance with Section 1 of Senate Bill No. 2700,
202 2007 Regular Session. Any person who will be eighteen (18) years
203 of age or older on or before the date of the general election and
204 who is duly registered to vote not less than thirty (30) days
205 prior to the primary election associated with such general
206 election, may vote in such primary election even though such
207 person has not reached his or her eighteenth (18th) birthday at
208 the time such person offers to vote at such primary election. No
209 others than those above included shall be entitled, or shall be
210 allowed, to vote at any election.

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

213 23-15-541. At all elections, the polls shall be opened at
214 seven o'clock in the morning and be kept open until seven o'clock
215 in the evening and no longer. Upon the opening of the polls, and
216 not before, the managers of the election shall designate two (2)
217 of their number, other than the manager theretofore designated to
218 receive the blank ballots, who shall thereupon be known
219 respectively as the initialing manager and the alternate
220 initialing manager. The alternate initialing manager, in the
221 absence of the initialing manager, shall perform all of the duties
222 and undertake all of the responsibilities of the initialing
223 manager. When any person entitled to vote shall appear to vote,
224 the managers shall identify the voter by requiring the voter to
225 submit identification as required by Section 1 of Senate Bill No.
226 2700, 2007 Regular Session, and then such person shall * * * sign
227 his name in a receipt book or booklet provided for that purpose

228 and to be used at that election only and said receipt book or
229 booklet shall be used in lieu of the list of voters who have voted
230 formerly made by the managers or clerks; whereupon and not before,
231 the initialing manager or, in his absence, the alternate
232 initialing manager shall indorse his initials on the back of an
233 official blank ballot, prepared in accordance with law, and at
234 such place on the back of the ballot that the initials may be seen
235 after the ballot has been marked and folded, and when so indorsed
236 he shall deliver it to the voter, which ballot the voter shall
237 mark in the manner provided by law, which when done the voter
238 shall deliver the same to the initialing manager or, in his
239 absence, to the alternate initialing manager, in the presence of
240 the others, and the manager shall see that the ballot so delivered
241 bears on the back thereof the genuine initials of the initialing
242 manager, or alternate initialing manager, and if so, but not
243 otherwise, the ballot shall be put into the ballot box; and when
244 so done one (1) of the managers or a duly appointed clerk shall
245 make the proper entry on the pollbook. If the voter is unable to
246 write his name on the receipt book, a manager or clerk shall note
247 on the back of the ballot that it was receipted for by his
248 assistance.

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

251 23-15-719. (1) Immediately upon completion of an
252 application filed pursuant to the provisions of paragraph (a) of
253 Section 23-15-715, the registrar shall deliver the necessary
254 ballots to the applicant. The registrar shall identify the
255 applicant by requiring him to present identification as required
256 by Section 1 of Senate Bill No. 2700, 2007 Regular Session, and
257 shall then deliver the ballots to the applicant by mail or to the
258 applicant in the registrar's office. The registrar shall not
259 personally hand deliver ballots to voters, unless he delivers the
260 ballots in the office of the registrar. The elector shall fill in

261 his ballot in secret. After the applicant has properly marked the
262 ballot and properly folded it, he shall deposit it in the envelope
263 furnished him by the registrar.

264 After he has sealed the envelope, he shall subscribe and
265 swear to an affidavit in the following form, which shall be
266 printed on the back of the envelope containing the applicant's
267 ballot:

268 "STATE OF MISSISSIPPI
269 COUNTY OF _____

270 I, _____, do solemnly swear that this envelope contains
271 the ballot marked by me indicating my choice of the candidates or
272 propositions to be submitted at the election to be held on the ___
273 day of _____, 2____, and I hereby authorize the registrar to
274 place this envelope in the ballot box on my behalf, and I further
275 authorize the election managers to open this envelope and place my
276 ballot among the other ballots cast before such ballots are
277 counted, and record my name on the poll list as if I were present
278 in person and voted.

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

280 _____
281 (Signature of voter)

282 SWORN TO AND SUBSCRIBED before me, _____, this the ___
283 day of _____, 2____.

284 (Registrar) _____
285 (Registrar)"

286 After the completion of the requirements of this section, the
287 elector shall deliver the envelope containing the ballot to the
288 registrar.

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

293 "CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

294 (To be completed only if the voter has received assistance in
295 marking the enclosed ballot.) I hereby certify that the
296 above-named voter declared to me that he or she is blind,
297 temporarily or permanently physically disabled, or cannot read or
298 write, and that the voter requested that I assist the voter in
299 marking the enclosed absentee ballot. I hereby certify that the
300 ballot preferences on the enclosed ballot are those communicated
301 by the voter to me, and that I have marked the enclosed ballot in
302 accordance with the voter's instructions.

303 _____
304 Signature of person providing assistance

305 _____
306 Printed name of person providing assistance

307 _____
308 Address of person providing assistance

309 _____
310 Date and time assistance provided

311 _____
312 Family relationship to voter (if any)"

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

315 **SECTION 7.** The Attorney General of the State of Mississippi
316 shall submit this act, immediately upon approval by the Governor,
317 or upon approval by the Legislature subsequent to a veto, to the
318 Attorney General of the United States or to the United States
319 District Court for the District of Columbia in accordance with the
320 provisions of the Voting Rights Act of 1965, as amended and
321 extended.

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