

By: Senator(s) Burton

To: Elections

SENATE BILL NO. 2309  
(As Passed the Senate)

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 person who appears to vote in person at a polling  
46 place and does not have identification as required by this section  
47 may vote by affidavit ballot. If, upon examination of the  
48 affidavit, the person is found to be a registered voter, the  
49 person's vote shall be counted.

50 (4) Any person who utilizes the provisions of this section  
51 to intimidate a voter, or to prevent from voting a person who is  
52 otherwise qualified to vote, shall, upon conviction, be sentenced  
53 to pay a fine of not less than Five Thousand Dollars (\$5,000.00),  
54 or by imprisonment for not less than one (1) year nor more than  
55 five (5) years, or both.

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

58 23-15-631. (1) The registrar shall enclose with each ballot  
59 provided to an absent elector separate printed instructions  
60 furnished by him containing the following:

61 (a) All absentee voters, excepting those with temporary  
62 or permanent physical disabilities or those who are sixty-five

63 (65) years of age or older, who mark their ballots in the county  
64 of the residence shall use the registrar of that county as the  
65 witness. Said absentee voter shall come to the office of the  
66 registrar and neither the registrar nor his deputy shall be  
67 required to go out of the registrar's office to serve as an  
68 attesting witness.

69 (b) Upon receipt of the enclosed ballot, you will not  
70 mark same except in view or sight of the attesting witness. In  
71 the sight or view of the attesting witness, mark the ballot  
72 according to instructions.

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

89 Any notary public, United States postmaster, assistant United  
90 States postmaster, United States postal supervisor, clerk in  
91 charge of a contract postal station, or any officer having  
92 authority to administer an oath or take an acknowledgment may be  
93 an attesting witness; provided, however, that in the case of an  
94 absent elector who is temporarily or permanently physically  
95 disabled, the attesting witness may be any person eighteen (18)

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

109 (d) When the application accompanies the ballot it  
110 shall not be returned in the same envelope as the ballot but shall  
111 be returned in a separate preaddressed envelope provided by the  
112 registrar.

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

116 (f) Any voter casting an absentee ballot who declares  
117 that he requires assistance to vote by reason of blindness,  
118 temporary or permanent physical disability or inability to read or  
119 write, shall be entitled to receive assistance in the marking of  
120 his absentee ballot and in completing the affidavit on the  
121 absentee ballot envelope. The voter may be given assistance by  
122 anyone of the voter's choice other than a candidate whose name  
123 appears on the absentee ballot being marked, or the voter's  
124 employer, or agent of that employer. In order to ensure the  
125 integrity of the ballot, any person who provides assistance to an  
126 absentee voter shall be required to sign and complete the  
127 "Certificate of Person Providing Voter Assistance" on the absentee  
128 ballot envelope.

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

133           (3) The foregoing instructions required to be provided by  
134 the registrar to the elector shall also constitute the substantive  
135 law pertaining to the handling of absentee ballots by the elector  
136 and registrar.

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

139           23-15-639. (1) At the close of the regular balloting and at  
140 the close of the polls, the election managers of each voting  
141 precinct shall first take the envelopes containing the absentee  
142 ballots of such electors from the box, and the name, address and  
143 precinct inscribed on each such envelope shall be announced by the  
144 election managers. The signature on the application shall then be  
145 compared with the signature on the back of the envelope. If it  
146 corresponds and the affidavit, if one is required, is sufficient  
147 and the election managers find that the applicant is a registered  
148 and qualified voter or otherwise qualified to vote, and that he  
149 has not appeared in person and voted at such election, the  
150 envelope shall then be opened and the ballot removed from the  
151 envelope, without its being unfolded, or permitted to be unfolded  
152 or examined. Having observed and found the ballot to be regular  
153 as far as can be observed from its official endorsement, the  
154 election managers shall deposit it in the ballot box with the  
155 other ballots before counting any ballots and enter the voter's  
156 name in the receipt book provided for that purpose and mark  
157 "VOTED" in the pollbook or poll list as if he had been present and  
158 voted in person. If voting machines are used, all absentee  
159 ballots shall be placed in the ballot box before any ballots are  
160 counted, and the election managers in each precinct shall

161 immediately count such absentee ballots and add them to the votes  
162 cast in the voting machine or device.

163 (2) The election managers shall also take such action as may  
164 be prescribed by the Secretary of State to ensure compliance with  
165 the identification requirements of the Help America Vote Act of  
166 2002.

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

169 23-15-11. Every inhabitant of this state, except idiots and  
170 insane persons, who is a citizen of the United States of America,  
171 eighteen (18) years old and upwards, who has resided in this state  
172 for thirty (30) days and for thirty (30) days in the county in  
173 which he offers to vote, and for thirty (30) days in the  
174 incorporated city or town in which he offers to vote, and who  
175 shall have been duly registered as an elector pursuant to Section  
176 23-15-33, and who has never been convicted of any crime listed in  
177 Section 241, Mississippi Constitution of 1890, shall be a  
178 qualified elector in and for the county, municipality and voting  
179 precinct of his residence, and shall be entitled to vote at any  
180 election upon compliance with Section 1 of Senate Bill No. 2309,  
181 2006 Regular Session. Any person who will be eighteen (18) years  
182 of age or older on or before the date of the general election and  
183 who is duly registered to vote not less than thirty (30) days  
184 prior to the primary election associated with such general  
185 election, may vote in such primary election even though such  
186 person has not reached his or her eighteenth (18th) birthday at  
187 the time such person offers to vote at such primary election. No  
188 others than those above included shall be entitled, or shall be  
189 allowed, to vote at any election.

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

192 23-15-541. At all elections, the polls shall be opened at  
193 seven o'clock in the morning and be kept open until seven o'clock

194 in the evening and no longer. Upon the opening of the polls, and  
195 not before, the managers of the election shall designate two (2)  
196 of their number, other than the manager theretofore designated to  
197 receive the blank ballots, who shall thereupon be known  
198 respectively as the initialing manager and the alternate  
199 initialing manager. The alternate initialing manager, in the  
200 absence of the initialing manager, shall perform all of the duties  
201 and undertake all of the responsibilities of the initialing  
202 manager. When any person entitled to vote shall appear to vote,  
203 the managers shall identify the voter by requiring the voter to  
204 submit identification as required by Section 1 of Senate Bill No.  
205 2309, 2006 Regular Session, and then such person shall \* \* \* sign  
206 his name in a receipt book or booklet provided for that purpose  
207 and to be used at that election only and said receipt book or  
208 booklet shall be used in lieu of the list of voters who have voted  
209 formerly made by the managers or clerks; whereupon and not before,  
210 the initialing manager or, in his absence, the alternate  
211 initialing manager shall indorse his initials on the back of an  
212 official blank ballot, prepared in accordance with law, and at  
213 such place on the back of the ballot that the initials may be seen  
214 after the ballot has been marked and folded, and when so indorsed  
215 he shall deliver it to the voter, which ballot the voter shall  
216 mark in the manner provided by law, which when done the voter  
217 shall deliver the same to the initialing manager or, in his  
218 absence, to the alternate initialing manager, in the presence of  
219 the others, and the manager shall see that the ballot so delivered  
220 bears on the back thereof the genuine initials of the initialing  
221 manager, or alternate initialing manager, and if so, but not  
222 otherwise, the ballot shall be put into the ballot box; and when  
223 so done one (1) of the managers or a duly appointed clerk shall  
224 make the proper entry on the pollbook. If the voter is unable to  
225 write his name on the receipt book, a manager or clerk shall note

226 on the back of the ballot that it was receipted for by his  
227 assistance.

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

230 23-15-719. (1) Immediately upon completion of an  
231 application filed pursuant to the provisions of paragraph (a) of  
232 Section 23-15-715, the registrar shall deliver the necessary  
233 ballots to the applicant. The registrar shall identify the  
234 applicant by requiring him to present identification as required  
235 by Section 1 of Senate Bill No. 2309, 2006 Regular Session, and  
236 shall then deliver the ballots to the applicant by mail or to the  
237 applicant in the registrar's office. The registrar shall not  
238 personally hand deliver ballots to voters, unless he delivers the  
239 ballots in the office of the registrar. The elector shall fill in  
240 his ballot in secret. After the applicant has properly marked the  
241 ballot and properly folded it, he shall deposit it in the envelope  
242 furnished him by the registrar.

243 After he has sealed the envelope, he shall subscribe and  
244 swear to an affidavit in the following form, which shall be  
245 printed on the back of the envelope containing the applicant's  
246 ballot:

247 "STATE OF MISSISSIPPI  
248 COUNTY OF \_\_\_\_\_

249 I, \_\_\_\_\_, do solemnly swear that this envelope contains  
250 the ballot marked by me indicating my choice of the candidates or  
251 propositions to be submitted at the election to be held on the \_\_\_\_  
252 day of \_\_\_\_\_, 2\_\_\_\_, and I hereby authorize the registrar to  
253 place this envelope in the ballot box on my behalf, and I further  
254 authorize the election managers to open this envelope and place my  
255 ballot among the other ballots cast before such ballots are  
256 counted, and record my name on the poll list as if I were present  
257 in person and voted.

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



259 \_\_\_\_\_  
260 (Signature of voter)  
261 SWORN TO AND SUBSCRIBED before me, \_\_\_\_\_, this the \_\_\_\_  
262 day of \_\_\_\_\_, 2\_\_\_\_.  
263 (Registrar) \_\_\_\_\_  
264 (Registrar)"

265 After the completion of the requirements of this section, the  
266 elector shall deliver the envelope containing the ballot to the  
267 registrar.

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

272 "CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

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

282 \_\_\_\_\_  
283 Signature of person providing assistance

284 \_\_\_\_\_  
285 Printed name of person providing assistance

286 \_\_\_\_\_  
287 Address of person providing assistance

288 \_\_\_\_\_  
289 Date and time assistance provided

290 \_\_\_\_\_  
291 Family relationship to voter (if any)"

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

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

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