

By: Senator(s) Burton, Albritton, Brown,
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To: Elections

SENATE BILL NO. 2617

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. The 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 the ballot except in view or sight of the attesting witness.
71 In 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.

84 Any notary public, United States postmaster, assistant United
85 States postmaster, United States postal supervisor, clerk in
86 charge of a contract postal station, or any officer having
87 authority to administer an oath or take an acknowledgment may be
88 an attesting witness; provided, however, that in the case of an
89 absent elector who is temporarily or permanently physically
90 disabled, the attesting witness may be any person eighteen (18)
91 years of age or older and such person is not required to have the
92 authority to administer an oath. If a postmaster, assistant
93 postmaster, postal supervisor, or clerk in charge of a contract
94 postal station acts as an attesting witness, his signature on the
95 elector's certificate must be authenticated by the cancellation

96 stamp of their respective post offices. If one or the other
97 officers herein named acts as attesting witness, his signature on
98 the elector's certificate, together with his title and address,
99 but no seal, shall be required. Any affidavits made by an absent
100 elector who is in the Armed Forces may be executed before a
101 commissioned officer, warrant officer, or noncommissioned officer
102 not lower in grade than sergeant rating or any person authorized
103 to administer oaths.

104 (d) When the application accompanies the ballot it
105 shall not be returned in the same envelope as the ballot but shall
106 be returned in a separate preaddressed envelope provided by the
107 registrar.

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

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

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

128 (3) The foregoing instructions required to be provided by
129 the registrar to the elector shall also constitute the substantive
130 law pertaining to the handling of absentee ballots by the elector
131 and registrar.

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

134 23-15-639. (1) In elections in which direct recording
135 electronic voting systems are not utilized, the examination and
136 counting of absentee ballots shall be conducted as follows:

137 (a) At the close of the regular balloting and at the
138 close of the polls, the election managers of each voting precinct
139 shall first take the envelopes containing the absentee ballots of
140 such electors from the box, and the name, address and precinct
141 inscribed on each envelope shall be announced by the election
142 managers.

143 (b) The signature on the application shall then be
144 compared with the signature on the back of the envelope. If it
145 corresponds and the affidavit, if one is required, is sufficient
146 and the election managers find that the applicant is a registered
147 and qualified voter or otherwise qualified to vote, and that he
148 has not appeared in person and voted at the election, the envelope
149 shall then be opened and the ballot removed from the envelope,
150 without its being unfolded, or permitted to be unfolded or
151 examined.

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

166 (a) At the close of the regular balloting and at the
167 close of the polls, the election managers of each voting precinct
168 shall first take the envelopes containing the absentee ballots of
169 such electors from the box, and the name, address and precinct
170 inscribed on each envelope shall be announced by the election
171 managers.

172 (b) The signature on the application shall then be
173 compared with the signature on the back of the envelope. If it
174 corresponds and the affidavit, if one is required, is sufficient
175 and the election managers find that the applicant is a registered
176 and qualified voter or otherwise qualified to vote, and that he
177 has not appeared in person and voted at the election, the unopened
178 envelope shall be marked "ACCEPTED" and the election managers
179 shall enter the voter's name in the receipt book provided for that
180 purpose and mark "VOTED" in the pollbook or poll list as if he had
181 been present and voted in person.

182 (c) All absentee ballot envelopes shall then be placed
183 in the secure ballot transfer case and delivered to the officials
184 in charge of conducting the election at the central tabulation
185 point of the county. The official in charge of the election shall
186 open the envelopes marked "ACCEPTED" and remove the ballot from
187 the envelope.

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

193 When there is a conflict between an electronic voting system
194 and a paper record, then there is a rebuttable presumption that
195 the paper record is correct.

196 (3) The election managers shall also take such action as may
197 be prescribed by the Secretary of State to ensure compliance with
198 the identification requirements of the Help America Vote Act of
199 2002.

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

202 23-15-11. Every inhabitant of this state, except idiots and
203 insane persons, who is a citizen of the United States of America,
204 eighteen (18) years old and upwards, who has resided in this state
205 for thirty (30) days and for thirty (30) days in the county in
206 which he offers to vote, and for thirty (30) days in the
207 incorporated city or town in which he offers to vote, and who
208 shall have been duly registered as an elector pursuant to Section
209 23-15-33, and who has never been convicted of any crime listed in
210 Section 241, Mississippi Constitution of 1890, shall be a
211 qualified elector in and for the county, municipality and voting
212 precinct of his residence, and shall be entitled to vote at any
213 election upon compliance with Section 1 of Senate Bill No. 2617,
214 2007 Regular Session. Any person who will be eighteen (18) years
215 of age or older on or before the date of the general election and
216 who is duly registered to vote not less than thirty (30) days
217 prior to the primary election associated with such general
218 election, may vote in such primary election even though such
219 person has not reached his or her eighteenth (18th) birthday at
220 the time such person offers to vote at such primary election. No
221 others than those above included shall be entitled, or shall be
222 allowed, to vote at any election.

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

225 23-15-541. At all elections, the polls shall be opened at
226 seven o'clock in the morning and be kept open until seven o'clock
227 in the evening and no longer. Upon the opening of the polls, and
228 not before, the managers of the election shall designate two (2)
229 of their number, other than the manager theretofore designated to
230 receive the blank ballots, who shall thereupon be known
231 respectively as the initialing manager and the alternate
232 initialing manager. The alternate initialing manager, in the
233 absence of the initialing manager, shall perform all of the duties
234 and undertake all of the responsibilities of the initialing
235 manager. When any person entitled to vote shall appear to vote,
236 the managers shall identify the voter by requiring the voter to
237 submit identification as required by Section 1 of Senate Bill No.
238 2617, 2007 Regular Session, and then such person shall * * * sign
239 his name in a receipt book or booklet provided for that purpose
240 and to be used at that election only and said receipt book or
241 booklet shall be used in lieu of the list of voters who have voted
242 formerly made by the managers or clerks; whereupon and not before,
243 the initialing manager or, in his absence, the alternate
244 initialing manager shall indorse his initials on the back of an
245 official blank ballot, prepared in accordance with law, and at
246 such place on the back of the ballot that the initials may be seen
247 after the ballot has been marked and folded, and when so indorsed
248 he shall deliver it to the voter, which ballot the voter shall
249 mark in the manner provided by law, which when done the voter
250 shall deliver the same to the initialing manager or, in his
251 absence, to the alternate initialing manager, in the presence of
252 the others, and the manager shall see that the ballot so delivered
253 bears on the back thereof the genuine initials of the initialing
254 manager, or alternate initialing manager, and if so, but not
255 otherwise, the ballot shall be put into the ballot box; and when
256 so done one (1) of the managers or a duly appointed clerk shall
257 make the proper entry on the pollbook. If the voter is unable to

258 write his name on the receipt book, a manager or clerk shall note
259 on the back of the ballot that it was receipted for by his
260 assistance.

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

263 23-15-719. (1) Immediately upon completion of an
264 application filed pursuant to the provisions of paragraph (a) of
265 Section 23-15-715, the registrar shall deliver the necessary
266 ballots to the applicant. The registrar shall identify the
267 applicant by requiring him to present identification as required
268 by Section 1 of Senate Bill No. 2617, 2007 Regular Session, and
269 shall then deliver the ballots to the applicant by mail or to the
270 applicant in the registrar's office. The registrar shall not
271 personally hand deliver ballots to voters, unless he delivers the
272 ballots in the office of the registrar. The elector shall fill in
273 his ballot in secret. After the applicant has properly marked the
274 ballot and properly folded it, he shall deposit it in the envelope
275 furnished him by the registrar.

276 After he has sealed the envelope, he shall subscribe and
277 swear to an affidavit in the following form, which shall be
278 printed on the back of the envelope containing the applicant's
279 ballot:

280 "STATE OF MISSISSIPPI

281 COUNTY OF _____

282 I, _____, do solemnly swear that this envelope contains
283 the ballot marked by me indicating my choice of the candidates or
284 propositions to be submitted at the election to be held on the ____
285 day of _____, 2____, and I hereby authorize the registrar to
286 place this envelope in the ballot box on my behalf, and I further
287 authorize the election managers to open this envelope and place my
288 ballot among the other ballots cast before such ballots are
289 counted, and record my name on the poll list as if I were present
290 in person and voted.

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

292 _____

293 (Signature of voter)

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

295 day of _____, 2____.

296 (Registrar) _____

297 (Registrar)"

298 After the completion of the requirements of this section, the
299 elector shall deliver the envelope containing the ballot to the
300 registrar.

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

305 "CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

306 (To be completed only if the voter has received assistance in
307 marking the enclosed ballot.) I hereby certify that the
308 above-named voter declared to me that he or she is blind,
309 temporarily or permanently physically disabled, or cannot read or
310 write, and that the voter requested that I assist the voter in
311 marking the enclosed absentee ballot. I hereby certify that the
312 ballot preferences on the enclosed ballot are those communicated
313 by the voter to me, and that I have marked the enclosed ballot in
314 accordance with the voter's instructions.

315 _____

316 Signature of person providing assistance

317 _____

318 Printed name of person providing assistance

319 _____

320 Address of person providing assistance

321 _____

322 Date and time assistance provided

323 _____

324 Family relationship to voter (if any)"

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

327 **SECTION 7.** The Attorney General of the State of Mississippi
328 shall submit this act, immediately upon approval by the Governor,
329 or upon approval by the Legislature subsequent to a veto, to the
330 Attorney General of the United States or to the United States
331 District Court for the District of Columbia in accordance with the
332 provisions of the Voting Rights Act of 1965, as amended and
333 extended.

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