

SECOND REGULAR SESSION

# HOUSE BILL NO. 1414

97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE ENTLICHER.

5313H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 115.275, 115.279, and 115.291, RSMO, and to enact in lieu thereof three new sections relating to absentee voting, with an emergency clause.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 115.275, 115.279, and 115.291, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 115.275, 115.279, and 115.291, to read as follows:

115.275. As used in sections 115.275 to 115.304, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Absentee ballot", any of the ballots a person is authorized to cast away from a polling place pursuant to the provisions of sections 115.275 to 115.304;

(2) "Interstate former resident", a former resident and registered voter in this state who moves from Missouri to another state after the deadline to register to vote in any presidential election in the new state and who otherwise possesses the qualifications to register and vote in such state;

(3) "Intrastate new resident", a registered voter of this state who moves from one election authority's jurisdiction in the state to another election authority's jurisdiction in the state after the last day authorized in this chapter to register to vote in an election and otherwise possesses the qualifications to vote;

(4) "New resident", a person who moves to this state after the last date authorized in this chapter to register to vote in any presidential election;

(5) "Persons in federal service" includes:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (a) Members of the Armed Forces of the United States, while in active service, and their  
17 spouses and dependents;

18 (b) Active members of the Merchant Marine of the United States and their spouses and  
19 dependents;

20 (c) Civilian employees of the United States government working outside the boundaries  
21 of the United States, and their spouses and dependents;

22 (d) Active members of religious or welfare organizations assisting servicemen, and their  
23 spouses and dependents;

24 (e) Persons who have been honorably discharged from the Armed Forces or who have  
25 terminated their service or employment in any group mentioned in this section within sixty days  
26 of an election, and their spouses and dependents;

27 **(6) "Emergency worker", a registered voter in this state engaged in responding to**  
28 **an emergency declared in this state or any other state.**

115.279. 1. Application for an absentee ballot may be made by the applicant in person,  
2 or by mail, or for the applicant, in person, by his or her guardian or a relative within the second  
3 degree by consanguinity or affinity. The election authority shall accept applications by facsimile  
4 transmission within the limits of its telecommunications capacity.

5 2. Each application shall be made to the election authority of the jurisdiction in which  
6 the person is or would be registered. Each application shall be in writing and shall state the  
7 applicant's name, address at which he or she is or would be registered, his or her reason for  
8 voting an absentee ballot, the address to which the ballot is to be mailed, if mailing is requested,  
9 and for absent uniformed services and overseas applicants, the applicant's email address if  
10 electronic transmission is requested. Each application to vote in a primary election shall also  
11 state which ballot the applicant wishes to receive. If any application fails to designate a ballot,  
12 the election authority shall, within three working days after receiving the application, notify the  
13 applicant by mail that it will be unable to deliver an absentee ballot until the applicant designates  
14 which political party ballot he or she wishes to receive. If the applicant does not respond to the  
15 request for political party designation, the election authority is authorized to provide the voter  
16 with that part of the ballot for which no political party designation is required.

17 3. Except as provided in subsection 3 of section 115.281, all applications for absentee  
18 ballots received prior to the sixth Tuesday before an election shall be stored at the office of the  
19 election authority until such time as the applications are processed in accordance with section  
20 115.281. **Except as provided in section 115.291**, no application for an absentee ballot received  
21 in the office of the election authority by mail, by facsimile transmission or by a guardian or  
22 relative after 5:00 p.m. on the Wednesday immediately prior to the election shall be accepted by  
23 any election authority. No application for an absentee ballot submitted by the applicant in person

24 after 5:00 p.m. on the day before the election shall be accepted by any election authority, except  
25 as provided in subsections 6, 8 and 9 of this section.

26 4. Each application for an absentee ballot shall be signed by the applicant or, if the  
27 application is made by a guardian or relative pursuant to this section, the application shall be  
28 signed by the guardian or relative, who shall note on the application his or her relationship to the  
29 applicant. If an applicant, guardian or relative is blind, unable to read or write the English  
30 language or physically incapable of signing the application, he or she shall sign by mark,  
31 witnessed by the signature of an election official or person of his or her own choosing. Any  
32 person who knowingly makes, delivers or mails a fraudulent absentee ballot application shall be  
33 guilty of a class one election offense.

34 5. (1) Notwithstanding any law to the contrary, any resident of the state of Missouri who  
35 resides outside the boundaries of the United States or who is on active duty with the Armed  
36 Forces of the United States or members of their immediate family living with them may request  
37 an absentee ballot for both the primary and subsequent general election with one application.

38 (2) The election authority shall provide each absent uniformed services voter and each  
39 overseas voter who submits a voter registration application or an absentee ballot request, if the  
40 election authority rejects the application or request, with the reasons for the rejection.

41 (3) Notwithstanding any other law to the contrary, if a standard oath regarding material  
42 misstatements of fact is adopted for uniformed and overseas voters pursuant to the Help America  
43 Vote Act of 2002, the election authority shall accept such oath for voter registration, absentee  
44 ballot, or other election-related materials.

45 (4) Not later than sixty days after the date of each regularly scheduled general election  
46 for federal office, each election authority which administered the election shall submit to the  
47 secretary of state in a format prescribed by the secretary a report on the combined number of  
48 absentee ballots transmitted to, and returned by, absent uniformed services voters and overseas  
49 voters for the election. The secretary shall submit to the Election Assistance Commission a  
50 combined report of such information not later than ninety days after the date of each regularly  
51 scheduled general election for federal office and in a standardized format developed by the  
52 commission pursuant to the Help America Vote Act of 2002. The secretary shall make the report  
53 available to the general public.

54 (5) As used in this section, the terms "absent uniformed services voter" and "overseas  
55 voter" shall have the meaning prescribed in 42 U.S.C. 1973ff-6.

56 6. An application for an absentee ballot by a new resident, as defined in section 115.275,  
57 shall be submitted in person by the applicant in the office of the election authority in the election  
58 jurisdiction in which such applicant resides. The application shall be received by the election  
59 authority no later than 7:00 p.m. on the day of the election. Such application shall be in the form

60 of an affidavit, executed in duplicate in the presence of the election authority or any authorized  
61 officer of the election authority, and in substantially the following form:

62 "STATE OF.....

63 COUNTY OF....., ss.

64 I,....., do solemnly swear that:

65 (1) Before becoming a resident of this state, I resided at  
66 ..... (residence address) in ..... (town, township,  
67 village or city) of ..... County in the state of .....

68 (2) I moved to this state after the last day to register to vote in such general presidential  
69 election and I am now residing in the county of ....., state of Missouri;

70 (3) I believe I am entitled pursuant to the laws of this state to vote in the presidential  
71 election to be held November ....., ..... (year);

72 (4) I hereby make application for a presidential and vice presidential ballot. I have not  
73 voted and shall not vote other than by this ballot at such election.

74 Signed .....

75 (Applicant)

76 .....

77 (Residence Address)

78 Subscribed and sworn to before me this ..... day of ....., .....

79 Signed .....

80 (Title and name of officer authorized to administer oaths)"

81 7. The election authority in whose office an application is filed pursuant to subsection  
82 6 of this section shall immediately send a duplicate of such application to the appropriate official  
83 of the state in which the new resident applicant last resided and shall file the original of such  
84 application in its office.

85 8. An application for an absentee ballot by an intrastate new resident, as defined in  
86 section 115.275, shall be made in person by the applicant in the office of the election authority  
87 in the election jurisdiction in which such applicant resides. The application shall be received by  
88 the election authority no later than 7:00 p.m. on the day of the election. Such application shall  
89 be in the form of an affidavit, executed in duplicate in the presence of the election authority or  
90 an authorized officer of the election authority, and in substantially the following form:

91 "STATE OF .....

92 COUNTY OF ....., ss.

93 I, ....., do solemnly swear that:

94 (1) Before becoming a resident of this election jurisdiction, I resided at  
95 ..... (residence address) in ..... (town, township, village or city)  
96 of ..... county in the state of .....

97 (2) I moved to this election jurisdiction after the last day to register to vote in such  
98 election;

99 (3) I believe I am entitled pursuant to the laws of this state to vote in the election to be  
100 held ..... (date);

101 (4) I hereby make application for an absentee ballot for candidates and issues on which  
102 I am entitled to vote pursuant to the laws of this state. I have not voted and shall not vote other  
103 than by this ballot at such election.

104 Signed .....

105 (Applicant)

106 .....

107 (Residence Address)

108 Subscribed and sworn to before me this ..... day of ....., .....

109 Signed .....

110 (Title and name of officer authorized to administer oaths)"

111 9. An application for an absentee ballot by an interstate former resident, as defined in  
112 section 115.275, shall be received in the office of the election authority where the applicant was  
113 formerly registered by 5:00 p.m. on the Wednesday immediately prior to the election, unless the  
114 application is made in person by the applicant in the office of the election authority, in which  
115 case such application shall be made no later than 7:00 p.m. on the day of the election.

115.291. 1. Upon receiving an absentee ballot in person or by mail, the voter shall mark  
2 the ballot in secret, place the ballot in the ballot envelope, seal the envelope and fill out the  
3 statement on the ballot envelope. The affidavit of each person voting an absentee ballot shall  
4 be subscribed and sworn to before the election official receiving the ballot, a notary public or  
5 other officer authorized by law to administer oaths, unless the voter is voting absentee due to  
6 incapacity or confinement due to the provisions of section 115.284, illness or physical disability,  
7 or the voter is a covered voter as defined in section 115.902. If the voter is blind, unable to read  
8 or write the English language, or physically incapable of voting the ballot, the voter may be  
9 assisted by a person of the voter's own choosing. Any person assisting a voter who is not entitled  
10 to such assistance, and any person who assists a voter and in any manner coerces or initiates a  
11 request or a suggestion that the voter vote for or against or refrain from voting on any question,  
12 ticket or candidate, shall be guilty of a class one election offense. If, upon counting, challenge  
13 or election contest, it is ascertained that any absentee ballot was voted with unlawful assistance,  
14 the ballot shall be rejected.

15           2. Except as provided in subsection 4 of this section, each absentee ballot shall be  
16 returned to the election authority in the ballot envelope and shall only be returned by the voter  
17 in person, or in person by a relative of the voter who is within the second degree of consanguinity  
18 or affinity, by mail or registered carrier or by a team of deputy election authorities; except that  
19 persons in federal service, when sent from a location determined by the secretary of state to be  
20 inaccessible on election day, shall be allowed to return their absentee ballots cast by use of  
21 facsimile transmission or under a program approved by the Department of Defense for electronic  
22 transmission of election materials.

23           3. In cases of an emergency declared by the President of the United States or the  
24 governor of this state where the conduct of an election may be affected, the secretary of state may  
25 provide for the delivery and return of absentee ballots by use of a facsimile transmission device  
26 or system. Any rule promulgated pursuant to this subsection shall apply to a class or classes of  
27 voters as provided for by the secretary of state.

28           4. No election authority shall refuse to accept and process any otherwise valid marked  
29 absentee ballot submitted in any manner by a covered voter solely on the basis of restrictions on  
30 envelope type.

31           **5. In the event of a state of emergency declared in this or any other state, or by the**  
32 **federal government, an election authority shall provide an absentee ballot and**  
33 **accompanying voting materials to an emergency worker by mail, facsimile transmission,**  
34 **or electronic transmission, as requested by the emergency worker and accept absentee**  
35 **ballots and accompanying voting materials from emergency workers via facsimile**  
36 **transmission or electronic transmission, as requested by the emergency worker.**

37           **6. If the emergency is declared after the deadline for requesting absentee ballots,**  
38 **emergency workers shall be eligible to request absentee ballots until 5:00 p.m. on the**  
39 **Monday immediately prior to the election.**

40           **7. In order to be counted, an absentee ballot cast by an emergency worker shall be**  
41 **received at or before the time fixed by law for the closing of the polls on election day.**

42           Section B. Because immediate action is necessary to allow the provisions of this act to  
43 apply to elections prior to August 28, 2014, this act is deemed necessary for the immediate  
44 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an  
45 emergency act within the meaning of the constitution, and this act shall be in full force and effect  
46 upon its passage and approval or July 1, 2014, whichever is later.

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