

SECOND REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 2208

99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE CURTMAN.

6029H.01P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 115.225, 115.237, and 115.287, RSMo, and to enact in lieu thereof three new sections relating to elections.

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

Section A. Sections 115.225, 115.237, and 115.287, RSMo, are repealed and three new  
2 sections enacted in lieu thereof, to be known as sections 115.225, 115.237, and 115.287, to read  
3 as follows:

115.225. 1. Before use by election authorities in this state, the secretary of state shall  
2 approve the marking devices and the automatic tabulating equipment used in electronic voting  
3 systems and may promulgate rules and regulations to implement the intent of sections 115.225  
4 to 115.235.

5 2. No electronic voting system shall be approved unless it:

6 (1) Permits voting in absolute secrecy;

7 (2) Permits each voter to vote for as many candidates for each office as a voter is  
8 lawfully entitled to vote for;

9 (3) Permits each voter to vote for or against as many questions as a voter is lawfully  
10 entitled to vote on, and no more;

11 (4) Provides facilities for each voter to cast as many write-in votes for each office as a  
12 voter is lawfully entitled to cast;

13 (5) Permits each voter in a primary election to vote for the candidates of only one party  
14 announced by the voter in advance;

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.

15 (6) Permits each voter at a presidential election to vote by use of a single punch or mark  
16 for the candidates of one party or group of petitioners for president, vice president and their  
17 presidential electors;

18 (7) Accurately counts all proper votes cast for each candidate and for and against each  
19 question;

20 (8) Is set to reject all votes, except write-in votes, for any office and on any question  
21 when the number of votes exceeds the number a voter is lawfully entitled to cast;

22 (9) **Produces the election results from paper ballots that voters have marked by**  
23 **hand or, in the case of disabled voters who need assistance, from paper ballots that have**  
24 **been marked by paper-ballot marking devices designed to assist disabled voters;**

25 (10) Permits each voter, while voting, to clearly see the ballot label; **and**

26 [~~10~~] (11) Has been tested and is certified by an independent authority that meets the  
27 voting system standards developed by the Federal Election Commission or its successor agency.  
28 The provisions of this subdivision shall not be required for any system purchased prior to August  
29 28, 2002.

30 3. **Beginning January 1, 2019, upon the removal of any direct-record electronic**  
31 **touch-screen vote counting machine from the election authority's inventory because of**  
32 **mechanical malfunction, wear and tear, or any other reason, the machine shall not be**  
33 **replaced and no additional direct-record electronic voting machine shall be added to the**  
34 **election authority's inventory. Replacement of equipment for use by disabled voters shall**  
35 **be with paper-ballot marking devices designed to assist the disabled.**

36 4. The secretary of state shall promulgate rules and regulations to allow the use of a  
37 computerized voting system. The procedures shall provide for the use of a computerized voting  
38 system with the ability to provide a paper audit trail. Notwithstanding any provisions of this  
39 chapter to the contrary, such a system may allow for the storage of processed ballot materials in  
40 an electronic form.

41 [~~4~~] 5. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
42 created under the authority delegated in this section shall become effective only if it complies  
43 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.  
44 This section and chapter 536 are nonseverable and if any of the powers vested with the general  
45 assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and  
46 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and  
47 any rule proposed or adopted after August 28, 2002, shall be invalid and void.

115.237. 1. **The official ballot shall be a paper ballot that is hand-marked by the**  
2 **voter or, in the case of disabled voters who need assistance, by a paper-ballot marking**  
3 **device designed to assist the disabled, except as provided in subsection 3 of section 115.225.**

4           **2.** Each ballot printed or designed for use with an electronic voting system for any  
5 election pursuant to this chapter shall contain all questions and the names of all offices and  
6 candidates certified or filed pursuant to this chapter and no other. As far as practicable, all  
7 questions and the names of all offices and candidates for which each voter is entitled to vote shall  
8 be printed on one page except for the ballot for political party committee persons in polling  
9 places not utilizing an electronic voting system which may be printed separately and in  
10 conformity with the requirements contained in this section. As far as practicable, ballots  
11 containing only questions and the names of nonpartisan offices and candidates shall be printed  
12 in accordance with the provisions of this section, except that the ballot information may be listed  
13 in vertical or horizontal rows. The names of candidates for each office shall be listed in the order  
14 in which they are filed.

15           ~~[2-]~~ **3.** In polling places using electronic voting systems, the ballot information may be  
16 arranged in vertical or horizontal rows or on a number of separate pages or screens. In any event,  
17 the name of each candidate, the candidate's party, the office for which he or she is a candidate,  
18 and each question shall be indicated clearly on the ballot.

19           ~~[3-]~~ **4.** Nothing in this subchapter shall be construed as prohibiting the use of a separate  
20 paper ballot for questions or for the presidential preference primary in any polling place using  
21 an electronic voting system.

22           ~~[4-]~~ **5.** Where electronic voting systems are used and when write-in votes are authorized  
23 by law, a write-in ballot, which may be in the form of a separate paper ballot, card, or envelope,  
24 may be provided by the election authority to permit each voter to write in the names of persons  
25 whose names do not appear on the ballot.

26           ~~[5-]~~ **6.** No ballot printed or designed for use with an electronic voting system for any  
27 partisan election held under this chapter shall allow a person to vote a straight political party  
28 ticket. For purposes of this subsection, a "straight political party ticket" means voting for all of  
29 the candidates for elective office who are on the ballot representing a single political party by a  
30 single selection on the ballot.

31           ~~[6-]~~ **7.** The secretary of state shall promulgate rules that specify uniform standards for  
32 ballot layout for each electronic or computerized ballot counting system approved under the  
33 provisions of section 115.225 so that the ballot used with any counting system is, where possible,  
34 consistent with the intent of this section. Nothing in this section shall be construed to require  
35 the format specified in this section if it does not meet the requirements of the ballot counting  
36 system used by the election authority.

37           ~~[7-]~~ **8.** Any rule or portion of a rule, as that term is defined in section 536.010, that is  
38 created under the authority delegated in this section shall become effective only if it complies  
39 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.

40 This section and chapter 536 are nonseverable and if any of the powers vested with the general  
41 assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and  
42 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and  
43 any rule proposed or adopted after August 28, 2002, shall be invalid and void.

115.287. 1. Upon receipt of a signed application for an absentee ballot and if satisfied  
2 the applicant is entitled to vote by absentee ballot, the election authority shall, within three  
3 working days after receiving the application, or if absentee ballots are not available at the time  
4 the application is received, within five working days after they become available, deliver to the  
5 voter an absentee ballot, ballot envelope and such instructions as are necessary for the applicant  
6 to vote. Delivery shall be made to the voter personally in the office of the election authority or  
7 by bipartisan teams appointed by the election authority, or by first class, registered, or certified  
8 mail at the discretion of the election authority, or in the case of a covered voter as defined in  
9 section 115.902, the method of transmission prescribed in section 115.914. Where the election  
10 authority is a county clerk, the members of bipartisan teams representing the political party other  
11 than that of county clerk shall be selected from a list of persons submitted to the county clerk by  
12 the county chairman of that party. If no list is provided by the time that absentee ballots are to  
13 be made available, the county clerk may select a person or persons from lists provided in  
14 accordance with section 115.087. If the election authority is not satisfied that any applicant is  
15 entitled to vote by absentee ballot, it shall not deliver an absentee ballot to the applicant. Within  
16 three working days of receiving such an application, the election authority shall notify the  
17 applicant and state the reason he or she is not entitled to vote by absentee ballot. The applicant  
18 may appeal the decision of the election authority to the circuit court in the manner provided in  
19 section 115.223.

20 2. If, after 5:00 p.m. on the Wednesday before an election, any voter from the jurisdiction  
21 has become hospitalized, becomes confined due to illness or injury, or is confined in an adult  
22 boarding facility, intermediate care facility, residential care facility, or skilled nursing facility,  
23 as defined in section 198.006, in the county in which the jurisdiction is located or in the  
24 jurisdiction or an adjacent election authority within the same county, the election authority shall  
25 appoint a team to deliver, witness the signing of and return the voter's application and deliver,  
26 witness the voting of and return the voter's absentee ballot. In counties with a charter form of  
27 government and in cities not within a county, and in each city which has over three hundred  
28 thousand inhabitants, and is situated in more than one county, if the election authority receives  
29 ten or more applications **from such voters** for absentee ballots from the same address it may  
30 appoint a team to deliver and witness the voting and return of absentee ballots by voters residing  
31 at that address~~], except when such addresses are for an apartment building or other structure~~  
32 ~~wherein individual living units are located, each of which has its own separate cooking~~

33 facilities]. Each team appointed pursuant to this subsection shall consist of two registered voters,  
34 one from each major political party. Both members of any team appointed pursuant to this  
35 subsection shall be present during the delivery, signing or voting and return of any application  
36 or absentee ballot signed or voted pursuant to this subsection.

37           3. On the mailing and ballot envelopes for each covered voter, the election authority  
38 shall stamp prominently in black the words "FEDERAL BALLOT, STATE OF MISSOURI" and  
39 "U.S. Postage Paid, 39 U.S.C. Section 3406".

40           4. No information which encourages a vote for or against a candidate or issue shall be  
41 provided to any voter with an absentee ballot.

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