

1 H.374

2 Introduced by Representatives Stevens of Waterbury, Pearson of Burlington,

3 Ram of Burlington and South of St. Johnsbury

4 Referred to Committee on

5 Date:

6 Subject: Elections; conduct of elections; voting by mail

7 Statement of purpose: This bill proposes to require a town clerk to mail an
8 early voter absentee ballot to each registered voter of the town.

9 An act relating to voting by mail

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 Sec. 1. 17 V.S.A. § 2103 is amended to read:

12 § 2103. DEFINITIONS

13 As used in this title, unless the context or a specific definition requires a
14 different reading:

15 (1) "~~Early or absentee~~ Absentee voter" means any voter of the state
16 who, because of his or her circumstances, would not be able to receive, mark,
17 or return the early voter absentee ballot mailed by the town clerk pursuant to
18 section 2530 of this title and who has requested an early voter absentee ballot
19 as provided in subchapter 6 of chapter 51 pursuant to section 2531 of this title.

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Sec. 2. 17 V.S.A. § 2478 is amended to read:

§ 2478. NUMBER OF PAPER BALLOTS TO BE PRINTED AND
FURNISHED

(a) For primary elections, the secretary of state shall furnish each town with a sufficient number of printed ballots to be used as early absentee ballots and ballots for voters choosing to vote in person, based on the history of voter turnout in the town and in consultation with the town clerk.

(b) For general elections, the secretary of state shall furnish each town with a number of printed ballots approximately equal to 100 percent of the number of voters on the checklist for the primary election to be used as early absentee ballots, and a sufficient number of printed ballots for voters choosing to vote in person.

* * *

Sec. 3. 17 V.S.A. § 2479 is amended to read:

§ 2479. MANNER OF DISTRIBUTION

Not later than 45 days before the election, the secretary of state shall furnish the prepared ballots to the clerk of each town. Ballots shall be sent in securely fastened packages by mail or in some other safe manner, with marks on the outside clearly designating the polling place for which they are intended and the number of ballots enclosed. The town clerk shall store the ballots, ~~except~~

1 ~~for ballots to be used as early or absentee voter or sample ballots; in a secure~~
2 ~~place until the day of the election, at which time the town clerk shall deliver~~
3 ~~them in sufficient quantities to the presiding officer in each polling place,~~
4 ~~together with any ballots prepared by the town clerk he or she mails them to~~
5 registered voters pursuant to subchapter 6 of this chapter. The town clerk shall
6 store the ballots to be used for voters voting in person in a secure place until
7 the day of the election, at which time the town clerk shall deliver them in
8 sufficient quantities to the presiding officer in each polling place, together with
9 any ballots prepared by the town clerk.

10 Sec. 4. 17 V.S.A. § 2530 is added to read:

11 § 2530. BALLOTS TO BE MAILED TO REGISTERED VOTERS; EARLY
12 VOTERS

13 (a) The town clerk shall mail by nonforwardable mail early voter absentee
14 ballots, envelopes, and instructions described in this subchapter not sooner
15 than the 18th day before the date of an election and not later than the 14th day
16 before the date of the election, to each registered voter of the town as of the
17 21st day before the date of the election.

18 (b) For a voter who applies and is eligible to have his or her name placed
19 on the checklist after the date the town clerk has mailed to voters the official
20 ballots, the town clerk shall make an early voter absentee ballot, envelope, and
21 instructions described in this subchapter available either by mail or at the town

1 clerk's office or at another place designated by the town clerk. A voter to
2 whom this subsection applies may request an early absentee ballot from the
3 town clerk.

4 (c)(1) As described in this subchapter, a voter may:

5 (A) return his or her marked early voter absentee ballot prior to the
6 election;

7 (B) return his or her marked early voter absentee ballot to the polling
8 place on election day; or

9 (C) vote in person.

10 (2) For the purposes of this title, a voter who returns his or her early
11 voter absentee ballot pursuant to subdivision (1)(A) or (B) of this subsection
12 shall be considered an early voter.

13 (d) The town clerk may, upon application, issue a duplicate early voter
14 absentee ballot if the original ballot is not received by the voter within a
15 reasonable period of time after mailing. The application may be made by a
16 person entitled to apply for an early voter absentee ballot as described in
17 subdivision 2532(a)(1) of this title and shall be accompanied by a sworn
18 statement affirming that the voter has not received the original ballot. If a
19 duplicate early voter absentee ballot is issued and both the duplicate and
20 original early voter absentee ballots are received before the close of the polls
21 on election day, the ballot with the earlier postmark shall be counted. The

1 town clerk shall keep a record of each duplicate ballot provided under this
2 subsection.

3 Sec. 5. 17 V.S.A. § 2531 is amended to read:

4 § 2531. ABSENTEE VOTER; APPLICATION FOR EARLY VOTER
5 ABSENTEE BALLOT

6 (a) A voter who expects to be an ~~early or~~ absentee voter, or an authorized
7 person on behalf of such voter, may apply for an early voter absentee ballot
8 until 5:00 p.m. or the closing of the town clerk's office on the day preceding
9 the election.

10 (b) All applications shall be filed with the town clerk of the town in which
11 the ~~early or~~ absentee voter is registered to vote. The town clerk shall file
12 written applications and memoranda of verbal applications in his or her office,
13 and shall retain the applications and memoranda for 90 days following the
14 election, at which time they may be destroyed.

15 (c) ~~Voting~~ An absentee voter may only vote by early voter absentee ballot
16 shall be allowed only in elections using the Australian ballot system.

17 Sec. 6. 17 V.S.A. § 2532 is amended to read:

18 § 2532. APPLICATIONS; FORM

19 (a)(1) An ~~early or~~ absentee voter, or an authorized family member or health
20 care provider acting in the voters behalf, may apply for an early voter absentee
21 ballot by telephone, in person, or in writing. "Family member" here means a

1 person's spouse, children, brothers, sisters, parents, spouse's parents,
2 grandparents, and spouse's grandparents. Any other authorized person may
3 apply in writing or in person. The application shall be in substantially the
4 following form:

5 **REQUEST FOR EARLY VOTER ABSENTEE BALLOT**

6 Name of ~~early~~ or absentee voter:

7 _____

8 Current address:

9 _____

10 Residence (if different):

11 _____

12 If applicant is other than ~~early~~ or absentee voter:

13 Name of applicant:

14 _____

15 Address of applicant:

16 _____

17 Relationship to ~~early~~ or absentee voter:

18 _____

19 Date: _____ Signature:

20 _____

21 * * *

1 (b) A person temporarily residing in a foreign country who is eligible to
2 register to vote in this state, or a military service absentee voter who is eligible
3 to register to vote in this state, may apply for early voter absentee ballots in the
4 same manner and within the same time limits that apply for other ~~early or~~
5 absentee voters. An official federal postcard application shall suffice as a
6 simultaneous request for an application for addition to the checklist and for an
7 early voter absentee ballot, when properly submitted. Any other person also
8 may make a simultaneous request for an application for addition to the
9 checklist and for an early voter absentee ballot.

10 * * *

11 (d) An application for an early voter absentee ballot shall be valid for only
12 one election, unless specific request is made by an ~~early or~~ absentee voter that
13 the application be valid for both a primary election, excluding a presidential
14 primary, and the general election next following, as long as both ballots are to
15 be mailed to the same address.

16 (e) A person residing in a state institution may apply for early voter
17 absentee ballots in the same manner and within the same time limits that apply
18 for other ~~early or~~ absentee voters.

19 (f) The town clerk may, upon application, issue a duplicate early voter
20 absentee ballot if the original ballot is not received by the absentee voter within
21 a reasonable period of time after mailing. The application may be made by a

1 person entitled to apply for an early voter absentee ballot under subsection (a)
2 of this section and shall be accompanied by a sworn statement affirming that
3 the voter has not received the original ballot. If a duplicate early voter
4 absentee ballot is issued and both the duplicate and original early voter
5 absentee ballots are received before the close of the polls on election day, the
6 ballot with the earlier postmark shall be counted. The town clerk shall keep a
7 record of each duplicate ballot provided under this subsection.

8 Sec. 7. 17 V.S.A. § 2532a is amended to read:

9 § 2532a. MOBILE POLLING STATIONS; ABSENTEE VOTERS

10 Notwithstanding any other provision of this chapter to the contrary, the
11 secretary of state may authorize a town clerk to establish a mobile polling
12 station at which two or more election officials who are not all members of the
13 same political party shall make absentee ballots available. The town clerk
14 shall notify the public of the mobile polling station three days prior to
15 operation by posting at the town clerk's office and at the mobile polling station
16 site the date and hours that the mobile polling station will operate. The
17 secretary of state shall establish procedures that ensure that:

18 * * *

19 (3) upon the closure of the mobile polling place, the election officials
20 shall immediately return the ballot envelopes, list of names, and any unvoted
21 ballots to the town clerk who shall add each voter's name to the list of ~~early or~~

1 absentee voters and commingle the envelopes with other returned early
2 absentee ballot envelopes in the vault. Ballots that are returned along with a
3 new voter registration form shall be kept in a secure place in the vault until the
4 registration process has been completed and then processed as in this
5 subdivision.

6 Sec. 8. 17 V.S.A. § 2533 is amended to read:

7 § 2533. NOTIFICATION OF INVALID APPLICATION

8 If the town clerk finds an application for an ~~early or~~ absentee voter ballot
9 which has been submitted to him or her to be invalid or incomplete, he or she
10 shall immediately notify the person making the application, either personally
11 or by mail, stating the ground on which the same is found to be invalid. The
12 application may be corrected but shall not be valid unless it is returned
13 corrected to the clerk within the time allowed for submitting an original
14 application.

15 Sec. 9. 17 V.S.A. § 2534 is amended to read:

16 § 2534. LIST OF EARLY OR ABSENTEE VOTERS

17 (a) Upon receipt of the valid absentee voter applications, the town clerk
18 shall make a list of the ~~early or~~ absentee voters.

19 (b) Upon receipt of an early voter's completed ballot, the town clerk shall
20 make a list of the early voters.

1 (c) ~~The list~~ lists described in subsections (a) and (b) of this section shall
2 include each early or absentee voter's name and address. A copy of the list
3 shall be available upon request at the town clerk's office and, on election day,
4 in each polling place in the town.

5 Sec. 10. 17 V.S.A. § 2537 is amended to read:

6 § 2537. ~~EARLY OR ABSENTEE VOTING IN THE TOWN CLERK'S~~
7 OFFICE

8 A An absentee voter may, if he or she chooses, apply in person to the town
9 clerk for the early voter absentee ballots and envelopes rather than having them
10 mailed as required by section 2539 of this title. In this case, the clerk shall
11 furnish the early voter absentee ballots and envelopes when a valid application
12 has been made. The voter may mark his or her ballots, seal them in the
13 envelope, sign the certificate, and return the ballots in the sealed envelope to
14 the town clerk or an assistant town clerk, without leaving the office of the town
15 clerk, or the voter may take the ballots and return them to the town clerk in the
16 same manner as if the ballots had been received by mail. No person, except
17 justices of the peace as provided in section 2538 of this title, may take any
18 ballot from the town clerk on behalf of any other person.

1 Sec. 11. 17 V.S.A. § 2538 is amended to read:

2 § 2538. DELIVERY OF ABSENTEE BALLOTS BY JUSTICES OF THE
3 PEACE

4 (a) In the case of persons who are ~~early~~ or absentee voters due to illness or
5 physical disability, ballots shall be delivered in the following manner unless
6 the ~~early~~ or absentee voter has requested pursuant to section 2539 of this title
7 that the early voter absentee ballots be mailed. Not later than three days prior
8 to the election, the board of civil authority shall designate in pairs justices of
9 the peace in numbers sufficient to deliver early voter absentee ballots to the
10 applicants for early voter absentee ballots who have stated in their applications
11 that they are unable to vote in person at the polling place due to illness or
12 physical disability but who have not requested in their applications that early
13 voter absentee ballots be mailed to them. No pair shall consist of two justices
14 from the same political party. If there shall not be available a sufficient
15 number of justices to make up the required number of pairs, a member of each
16 remaining pair shall be designated by the board, to be selected from lists of
17 registered voters submitted by the chairs of the town committees of political
18 parties, and from among registered voters who in written application to the
19 board state that they are not affiliated with any political party. No candidate or
20 spouse, parent, or child of a candidate, shall be eligible to perform the duties
21 prescribed by this section unless the candidate involved is not disqualified by

1 section 2456 of this title from serving as an election official. This shall not
2 prevent a candidate for district office from serving as a justice in another
3 district. The compensation of justices and voters designated under this
4 subsection shall be fixed by the board of civil authority and shall be paid by the
5 town.

6 (b) The town clerk shall divide the list of ill or physically disabled
7 applicants into approximately as many equal parts as there are pairs of justices
8 so designated, having regard to the several parts of the town in which the
9 applicants may be found. During the eight days immediately preceding
10 election day and on election day, the clerk shall deliver to each pair of justices
11 one part of the list, together with ~~early or~~ absentee voter ballots and envelopes
12 for each applicant. When justices receive ballots and envelopes prior to
13 election day, they shall receive only the ballots and envelopes they are
14 assigned to deliver on that day.

15 (c) Each pair of justices on the days they are assigned to deliver the ballots
16 and envelopes, shall call upon each of the ~~early or~~ absentee voters whose name
17 appears on the part of the list furnished to them and shall deliver early voter
18 absentee ballots and envelopes to each ~~early or~~ absentee voter. The ~~early or~~
19 absentee voter shall then proceed to mark the ballots alone or in the presence
20 of the justices, but without exhibiting them to the justices or to any other
21 person, except that when the ~~early or~~ absentee voter is blind or physically

1 unable to mark his or her ballot, they may be marked by one of the justices in
2 full view of the other.

3 Sec. 12. 17 V.S.A. § 2539 is amended to read:

4 § 2539. MAILING OF EARLY VOTER ABSENTEE BALLOTS;

5 PERMANENTLY DISABLED VOTERS

6 (a) Unless the ~~early or~~ absentee voter votes in the town clerk's office, or
7 unless the justices are to deliver the early voter absentee ballots to the ~~early or~~
8 absentee voter, the town clerk shall provide to the ~~early or~~ absentee voter who
9 comes to the town clerk's office a complete set of early voter absentee ballots
10 or mail a complete set of early voter absentee ballots to each ~~early or~~ absentee
11 voter for whom a valid application has been filed. The early voter absentee
12 ballots shall be mailed forthwith upon the filing of a valid application, or upon
13 the town clerk's receipt of the necessary ballots, whichever is later. Early
14 voter absentee ballots to persons having addresses outside the 50 states and the
15 District of Columbia shall be sent air mail, first class, postpaid when such
16 service is available.

17 (b) In the case of persons who are ~~early or~~ absentee voters due to illness or
18 physical disability, if the voter or authorized person requests in his or her
19 application or otherwise that early voter absentee ballots be mailed rather than
20 delivered by justices of the peace, the town clerk shall mail the ballots;
21 otherwise the ballots shall be delivered to such voters by justices of the peace.

1 In the case of all other ~~early or~~ absentee voters, the town clerk shall mail the
2 early voter absentee ballots, unless the voter chooses to apply and vote in
3 person at the town clerk's office.

4 Sec. 13. 17 V.S.A. § 2540(b) is amended to read:

5 (b) In the case of early or absentee voting in a primary, the instructions
6 shall also include appropriate instructions prepared by the secretary of state for
7 separating and depositing unvoted ballots in a separate envelope provided and
8 clearly marked for that purpose.

9 Sec. 14. 17 V.S.A. § 2541(b) is amended to read:

10 (b) When an ~~early or~~ absentee voter is blind or is physically unable to go to
11 the polls to vote in person or to mark his or her ballots, they may be marked by
12 one of the officers who delivers the ballots, in the presence of the other officer.

13 A person who gives assistance to a voter in the marking or registering of
14 ballots shall not in any way divulge any information regarding the choice of
15 the voter or the manner in which the voter's ballot was cast.

16 Sec. 15. EFFECTIVE DATE

17 This act shall take effect on passage.