

1 HB293
2 164818-2
3 By Representatives Ingram, Davis, Baker, Shiver, Lee,
4 Chesteen, Sessions, Williams (JD), Johnson (K), Collins,
5 Nordgren, Henry, Hubbard, South, Faulkner, McCutcheon, Weaver,
6 Faust, Gaston, Ainsworth, Williams (P), Shedd, Tuggle,
7 Millican, Hurst, Whorton (R), Hanes, Whorton (I), Boothe,
8 Polizos, Beckman, Wadsworth, Standridge and Hammon
9 RFD: Constitution, Campaigns and Elections
10 First Read: 17-MAR-15

2
3
4
5
6
7
8 SYNOPSIS: This bill would amend the absentee ballot
9 and photo ID laws to require the photo ID to be
10 submitted with the absentee ballot application. The
11 bill would provide that no ballot may be issued
12 until the photo ID requirement is satisfied.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

17
18 To amend Sections 17-9-30, 17-10-1, 17-10-2, and
19 17-11-9, Code of Alabama 1975, relating to the absentee ballot
20 process; to require that the photo ID required for voting must
21 also be presented for absentee voting.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Sections 17-9-30, 17-10-1, 17-10-2, and
24 17-11-9, Code of Alabama 1975, are amended to read as follows:

25 "§17-9-30.

26 "(a) Each elector shall provide valid photo
27 identification to an appropriate election official prior to

1 voting. A voter required to show valid photo identification
2 when voting in person shall present to the appropriate
3 election official one of the following forms of valid photo
4 identification:

5 "(1) A valid Alabama driver's license or nondriver
6 identification card which was properly issued by the
7 appropriate state or county department or agency.

8 "(2) A valid Alabama photo voter identification card
9 issued under subsection (f) or other valid identification card
10 issued by a branch, department, agency, or entity of the State
11 of Alabama, any other state, or the United States authorized
12 by law to issue personal identification, provided that such
13 identification card contains a photograph of the elector.

14 "(3) A valid United States passport.

15 "(4) A valid employee identification card containing
16 the photograph of the elector and issued by any branch,
17 department, agency, or entity of the United States government,
18 this state, or any county, municipality, board, authority, or
19 other entity of this state.

20 "(5) A valid student or employee identification card
21 issued by a public or private college, university, or
22 postgraduate technical or professional school located within
23 the state, provided that such identification card contains a
24 photograph of the elector.

25 "(6) A valid United States military identification
26 card, provided that such identification card contains a
27 photograph of the elector.

1 "(7) A valid tribal identification card containing a
2 photograph of the elector.

3 "(b) Voters ~~voting~~ applying for an absentee ballot
4 shall submit with the absentee ballot application a copy of
5 one of the forms of identification listed in subsection (a).

6 "(c) Notwithstanding subsection (b), a voter who is
7 entitled to vote by absentee ballot pursuant to the Uniformed
8 and Overseas Citizens Absentee Voting Act (subchapter I-G of
9 Chapter 20 of Title 42 U.S.C.); Section 3(b)(2)(B)(ii) of the
10 Voting Accessibility for the Elderly and Handicapped Act
11 (subchapter I-F of Chapter 20 of Title 42 U.S.C.); or any
12 other federal law, shall not be required to produce
13 identification prior to voting.

14 "(d) An individual required to present valid photo
15 identification in accordance with this section who is unable
16 to meet the identification requirements of this section, when
17 presenting himself or herself to vote in person at a polling
18 place, shall be permitted to vote by a provisional ballot, as
19 provided for by law. An individual applying for an absentee
20 ballot who is required to present valid photo identification
21 in accordance with this section who is unable to meet the
22 identification requirements of this section shall not be
23 issued an absentee ballot until the identification
24 requirements of this section are met.

25 "(e) In addition, an individual who does not have
26 valid photo identification in his or her possession at the
27 polls shall be permitted to vote if the individual is

1 positively identified by two election officials as a voter on
2 the poll list who is eligible to vote and the election
3 officials sign a sworn affidavit so stating. An individual
4 required to present a valid photo identification but who does
5 not have valid photo identification in his or her possession
6 when applying for an absentee ballot in person in the office
7 of the absentee election manager shall be issued an absentee
8 ballot if the individual is positively identified by the
9 absentee election manager as a voter on the poll list who is
10 eligible to vote and the absentee election manager signs a
11 sworn affidavit so stating.

12 "(f) The Secretary of State shall issue, upon
13 application, an Alabama photo voter identification card to
14 registered Alabama electors which shall under state law be
15 valid only for the purposes of voter identification under
16 subsection (a) and available only to registered electors of
17 this state. No fee shall be charged or collected for the
18 application for or issuance of an Alabama photo voter
19 identification card.

20 "(g) No person shall be eligible for an Alabama
21 photo voter identification card if such person has a valid
22 unexpired driver's license, nondriver identification card, or
23 any other photo identification described in subsection (a).

24 "(h) The Alabama photo voter identification card
25 shall be captioned ALABAMA PHOTO VOTER IDENTIFICATION CARD and
26 shall contain a prominent statement that under Alabama law the
27 card is valid only as identification for voting purposes. The

1 Alabama photo voter identification card shall be laminated,
2 shall contain a digital color photograph of the applicant,
3 shall have the signature of the Secretary of State, and shall
4 include the following information:

5 "(1) Full legal name.

6 "(2) Address as reflected in the person's voter
7 registration record.

8 "(3) Date of birth.

9 "(4) Eye color.

10 "(5) Gender.

11 "(6) Height.

12 "(7) Weight.

13 "(8) Date identification card was issued.

14 "(9) Other information as required by rule of the
15 Secretary of State.

16 "(i) The application for an Alabama photo voter
17 identification card shall elicit the information required
18 under subdivisions (1) to (7), inclusive, of subsection (h) and a mailing address if different from the applicant's
19 residential address as reflected on the applicant's voter
20 registration record. The application shall be signed and sworn
21 to by the applicant, and any falsification or fraud in the
22 making of the application shall constitute a Class C felony.

24 "(j) The Secretary of State shall require
25 presentation and verification of the following information
26 before issuing an Alabama photo voter identification card to a
27 person:

1 "(1) A photo identity document, except that a
2 non-photo identity document is acceptable if the document
3 includes both the person's full legal name and date of birth.

4 "(2) Documentation showing the person's date of
5 birth.

6 "(3) Documentation showing the person is registered
7 to vote in this state.

8 "(4) Documentation showing the person's name and
9 address as reflected in the voter registration record.

10 "(k) An Alabama photo voter identification card
11 shall remain valid so long as the person resides at that same
12 address and remains qualified to vote. It shall be the duty of
13 a person who moves his or her residence within the State of
14 Alabama to surrender his or her card to the Secretary of
15 State, and such person may after such surrender apply for and
16 receive a new card if the person is otherwise eligible under
17 this section. It shall be the duty of a person who moves his
18 or her residence outside the State of Alabama or who ceases to
19 be qualified to vote to surrender his or her card to the
20 Secretary of State.

21 "(l) The Secretary of State is authorized to
22 contract with a private provider for the production of the
23 Alabama photo voter identification card pursuant to any
24 applicable state bid laws.

25 "(m) The expenses for the production of the Alabama
26 photo voter identification card shall be paid from funds

1 appropriated in the state General Fund for Registration of
2 Voters.

3 "(n) The Secretary of State is directed to inform
4 the public regarding the requirements of subsection (a)
5 through whatever means deemed necessary by the Secretary of
6 State.

7 "(o) The Secretary of State is granted rule making
8 authority for the implementation of this section under the
9 Alabama Administrative Procedure Act.

10 "§17-10-1.

11 "(a) Each person who registers to vote by mail shall
12 provide identification prior to the first time they vote in an
13 election containing a federal office on the ballot and as
14 otherwise required by Section 17-9-30.

15 "(b) Voters who are ~~voting~~ applying to vote by
16 absentee ballot shall submit with the absentee ballot
17 application a copy of one of the forms of identification
18 listed in Section 17-9-30.

19 "(c) If an individual required to present
20 identification at a polling place on election day in
21 accordance with this section is unable to meet the
22 identification requirements of this section, the ballot cast
23 is a provisional ballot. If a voter requesting an absentee
24 ballot is unable to meet the identification requirements when
25 submitting the absentee ballot application, the absentee
26 election manager shall not issue the absentee ballot until the
27 voter meets identification requirements.

1 "§17-10-2.

2 "(a) A voter shall be required to cast a provisional
3 ballot when:

4 "(1) The name of the individual does not appear on
5 the official list of eligible voters for the precinct or
6 polling place in which the individual seeks to vote, and the
7 individual's registration cannot be verified while at the
8 polling place by the registrar or the judge of probate.

9 "(2) An inspector has knowledge that the individual
10 is not entitled to vote at that precinct and challenges the
11 individual.

12 "(3) The individual is required to comply with the
13 voter identification provisions of ~~Section~~ Sections 17-9-30
14 and 17-10-1 on election day at his or her polling place but is
15 unable to do so. If the voter's ballot becomes a provisional
16 ballot due to lack of identification, the identification,
17 including the address and telephone number of the voter, must
18 be provided to the board of registrars no later than 5:00 P.M.
19 on the Friday following the election. If the voter fails to
20 provide identification to the board of registrars by 5:00 P.M.
21 on the Friday following the election, the voter's ballot shall
22 not be counted.

23 "(4) A federal or state court order extends the time
24 for closing the polls beyond that established by state law and
25 the individual votes during the extended period of time.
26 Notwithstanding any other provision of state law, where
27 provisional ballots are cast pursuant to a federal or state

1 court order extending the time for closing the polls beyond
2 that established by state law, the provisional ballots shall
3 be segregated from other provisional ballots into a separate
4 sealed container for such purpose and shall be counted,
5 tabulated, and canvassed only pursuant to the order of a court
6 having proper jurisdiction.

7 "(5) The person has requested, but not voted, an
8 absentee ballot.

9 "(b) The procedure for casting a provisional ballot
10 at the polling place shall be as follows:

11 "(1) An inspector at the polling place shall notify
12 the individual that the individual may cast a provisional
13 ballot in that election and shall give the individual written
14 information that states that any individual who casts a
15 provisional ballot will be able to ascertain under the system
16 described in subsection (g) whether the vote was counted, and,
17 if the vote was not counted, the reason that the vote was not
18 counted.

19 "(2) The individual shall execute a written
20 affirmation by the individual before the inspector or clerk
21 stating the following:

22 ""State of Alabama, County of _____ I do
23 solemnly swear (or affirm) that I am a registered voter in the
24 precinct in which I am seeking to vote and that I am eligible
25 to vote in this election.

1
2
3
4
5
6
7
8
9
10

11
12
13
14
15
16
17
18
19
20
21
22
23

Signature or Mark

Printed Name of Voter

Printed Residence Address of Voter

City State Zip Code

Date of Birth"

"(3) The individual shall complete a voter reidentification form prescribed by the Secretary of State for use in updating the state voter registration list. This form shall indicate whether it is associated with a provisional ballot.

"(4) Where a provisional ballot is required on the basis of an inspector's knowledge that a voter is not qualified to vote in the precinct in which the individual is seeking to vote, the inspector shall sign a statement under penalty of perjury setting forth facts which the inspector believes to support his or her belief that the individual is not qualified to vote in the precinct in which the voter is seeking to vote. The challenge statement of the inspector

1 shall be written on a multi-part form prescribed for such
2 purpose by the Secretary of State and the inspector shall give
3 one copy to the provisional voter, provide one copy to be
4 sealed with the provisional ballots, and provide one copy to
5 be returned to the board of registrars in a sealed envelope.

6 "(5) The voter shall cast the provisional ballot and
7 place it into a sealed ballot box separately identified and
8 utilized for containing provisional ballots.

9 "(c) The procedure for voting a provisional ballot
10 by absentee voting shall be as follows:

11 ~~"(1) Upon receipt of an absentee ballot, the~~
12 ~~absentee election manager shall determine whether~~
13 ~~identification has been properly provided. If the~~
14 ~~identification has not been properly provided, the absentee~~
15 ~~election manager shall notify the voter in writing of the~~
16 ~~following:~~

17 ~~"a. That unless such identification is provided to~~
18 ~~the absentee election manager by 5:00 P.M. on the Friday~~
19 ~~before the election, the voter's absentee ballot will become a~~
20 ~~provisional ballot.~~

21 ~~"b. That in the event the voter's ballot becomes a~~
22 ~~provisional ballot due to lack of identification, such~~
23 ~~identification must be provided to the board of registrars no~~
24 ~~later than 5:00 P.M. on the Friday following the election and~~
25 ~~shall include the address and telephone information for the~~
26 ~~board of registrars.~~

1 ~~"c. That in the event the voter fails to provide~~
2 ~~identification to the board of registrars by 5:00 P.M. on the~~
3 ~~Friday following the election, the voter's ballot will not be~~
4 ~~counted.~~

5 ~~"d. That any individual who casts a provisional~~
6 ~~ballot will be able to ascertain under the system described in~~
7 ~~subsection (g) whether the vote was counted and, if the vote~~
8 ~~was not counted, the reason that the vote was not counted.~~

9 ~~"(2)(1)~~ Upon receipt of an application for an
10 absentee ballot where the voter is not identified as appearing
11 in the precinct for which the voter seeks a ballot, the
12 absentee election manager shall:

13 "a. Mark the word "Provisional" on the second or
14 affidavit envelope prior to transmittal of the absentee
15 ballot.

16 "b. Enclose the following information with the
17 transmittal of the absentee ballot:

18 "1. A written explanation as to why the ballot is a
19 provisional ballot; how to complete the voter reidentification
20 form and affirmation of provisional voter form; and the
21 procedure followed by the board of registrars in verifying and
22 certifying provisional votes.

23 "2. A voter reidentification form and an affirmation
24 of provisional voter form.

25 "3. A written explanation that any individual who
26 casts a provisional ballot will be able to ascertain under the
27 system described in subsection (g) whether the vote was

1 counted and, if the vote was not counted, the reason that the
2 vote was not counted.

3 "c. Provide the voter with the correct ballot for
4 the residential address that appears on the absentee ballot
5 application.

6 ~~"(3)(2)~~ When an absentee ballot becomes a
7 provisional ballot as a result of an absentee precinct
8 inspector having knowledge that the individual is not entitled
9 to vote at the voting place applicable to the voter's ballot
10 and challenges the voter's right to vote a particular ballot,
11 the absentee precinct inspector shall follow the same
12 procedure identified in subdivision (4) of subsection (b)
13 except as follows:

14 "a. In lieu of providing the provisional voter with
15 a copy of the poll worker challenge statement, the inspector
16 shall provide two copies to the absentee election manager once
17 the results from the absentee precinct have been tabulated and
18 certified.

19 "b. The absentee election manager shall mail one
20 copy of the challenge statement of the inspector by first
21 class mail by the day after the election to the mailing
22 address provided on the provisional voter's application for an
23 absentee ballot and shall enclose with it a written
24 explanation of the procedure used by the board of registrars
25 in verifying and certifying provisional ballots; an address
26 and telephone number by which the provisional voter may
27 respond; and a written explanation that any individual who

1 casts a provisional ballot will be able to ascertain under the
2 system described in subsection (g) whether the vote was
3 counted and, if the vote was not counted, the reason that the
4 vote was not counted.

5 "(d) Upon the closing of the polls, the sealed
6 ballot box containing the provisional ballots shall be
7 returned unopened to the sheriff, or in municipal elections to
8 the municipal clerk, who shall keep it securely until such
9 time as the provisional ballots are counted in accordance with
10 subsection (f). The written affirmations of the provisional
11 voters, inspector challenge statements, and all voter
12 reidentification forms shall be placed in a sealed envelope
13 addressed to the board of registrars and delivered by the
14 sheriff, or in municipal elections by the municipal clerk, to
15 the board of registrars no later than noon on the day
16 following the election.

17 "(e) Upon receipt of materials returned from the
18 polling places, the board of registrars shall forthwith update
19 the state voter registration list utilizing the voter
20 reidentification forms of provisional voters and shall verify
21 by a certification attached to each provisional voter
22 affirmation whether the provisional vote is entitled to be
23 counted and the reason for or against counting the provisional
24 ballot. For the purposes of a municipal election, when
25 verifying a provisional ballot based upon the fact that the
26 individual's name does not appear on the official list of
27 eligible voters for the polling place in which the individual

1 seeks to vote, the board of registrars shall verify that the
2 voter is registered to vote at an address located within the
3 municipal corporate limits or district within which he or she
4 seeks to vote. When verifying a provisional ballot based upon
5 the challenge of an inspector, the board of registrars shall
6 promptly contact the voter by first class mail and provide an
7 explanation of how the provisional voter may respond to the
8 challenge. After determining that the provisional voter has
9 had notice and an opportunity to be heard, the board of
10 registrars shall verify by a certification attached to the
11 challenge statement whether the provisional ballot is due to
12 be counted and, if not, why it should not be counted. The
13 board of registrars shall deliver the provisional voter
14 affirmations and inspector challenge statements, with the
15 certified findings of the board of registrars attached, to the
16 judge of probate, or in municipal elections to the municipal
17 clerk, no later than noon seven days after the election until
18 which time such findings shall remain confidential. Upon
19 delivery of such materials, the board of registrars shall
20 enter into the state voter registration list a voter history
21 providing identification of voters who cast provisional
22 ballots, whether their ballot was counted, and the reason the
23 ballot either was or was not counted.

24 "(f) Commencing at noon, Tuesday, seven days after
25 the election, the canvassing board, or in municipal elections
26 the municipal governing body, in the presence of watchers,
27 shall tabulate provisional ballots which have been certified

1 by the board of registrars as cast by registered and qualified
2 voters of the voting places in which such ballots were cast.
3 In the case of a provisional absentee ballot approved for
4 counting by the Board of Registrars pursuant to paragraph (e)
5 of this section, the canvassing board shall not open the
6 affidavit envelope and shall not count the provisional ballot
7 unless the affidavit envelope satisfies the requirements of
8 subsection (b) of Section 17-11-10. For the purpose of making
9 election returns of provisional ballots, provisional balloting
10 results shall be returned and canvassed as a separate precinct
11 while disclosing all votes for candidates and ballot measures
12 cast in such ballots. The canvassing board shall certify on a
13 form to be prescribed by the Secretary of State the results of
14 the provisional votes cast and shall post one copy in a public
15 location within the courthouse, or in the city hall in
16 municipal elections, and shall seal one copy with the
17 provisional ballots, provisional voter affirmations, inspector
18 or clerk challenge statements, and certifications of the board
19 of registrars into a sealed container or, in the case of
20 primary elections, containers designated for each political
21 party for such purpose. Such containers shall be delivered and
22 remain secured with the other records of the election in
23 accordance with state law.

24 "(g) The board of registrars, after verifying the
25 identity of a provisional voter, shall make available at the
26 request of such voter, the findings of the board of registrars
27 as to whether the individual's provisional ballot was counted

1 and, if not, the reason why. This may be accomplished by
2 telephone, by letter, or by secured electronic means. The
3 Secretary of State shall provide a secure means for
4 provisional voters to verify by electronic means whether the
5 individual's vote was counted and, if not, the reason why.
6 There shall be no charge to the provisional voters for
7 obtaining this information.

8 "(h) The Secretary of State may by rule address the
9 means of identifying ballots cast by particular provisional
10 voters by the appointing board and the method of providing
11 confidentiality and security to communications with
12 provisional voters seeking information about the status of
13 their ballot. Notice of any proposed rule or amendment to an
14 existing rule relating to provisional balloting shall be sent
15 by certified mail to every judge of probate at least 30 days
16 prior to certification of the proposed rule or amendment under
17 the Administrative Procedure Act.

18 "§17-11-9.

19 "Each prospective absentee voter who meets the
20 requirements of this chapter shall be furnished with the
21 absentee ballot herein provided for, together with two
22 envelopes for returning his or her marked ballot and
23 instructions for completing and returning the absentee ballot
24 as well as instructions for correcting mistakes in completing
25 ballots or obtaining a replacement ballot. One envelope shall
26 be a plain envelope in which the ballot shall be sealed by the
27 voter after he or she has marked it.

1 "The second envelope shall have the voter's
2 affidavit printed on the back and shall be large enough to
3 seal the plain ballot envelope inside. The second envelope
4 shall also be a return mail envelope.

5 "Such return mail envelope shall be addressed on the
6 front to the absentee election manager and shall be endorsed
7 on the left-hand upper corner thereof as follows:

8 ""Absent Voter's Ballot. State, County, Municipal,
9 General, Primary, or Special Election (as the case may be) to
10 be held on the ___ day of ____, 2__ From _____ (name of
11 voter), precinct or districts _____, County of _____,
12 Alabama."

13 "After marking the ballot and subscribing the oath
14 herein required, the voter shall seal his or her ballot in the
15 plain envelope, place that plain envelope inside the affidavit
16 envelope, complete the affidavit, have a notary public (or
17 other officer authorized to acknowledge oaths) or two
18 witnesses witness his or her signature to the affidavit, and
19 forward it by United States mail to the absentee election
20 manager or hand it to him or her in person.

21 ~~"Notwithstanding the other provisions of this~~
22 ~~section, the absentee election manager shall determine whether~~
23 ~~an applicant for an absentee ballot is obligated to produce~~
24 ~~identification in accordance with Sections 17-9-30 and 17-10-1~~
25 ~~or reidentify in accordance with Chapter 4. For absentee~~
26 ~~applicants required to produce identification, a third~~
27 ~~envelope of different color and sufficient size to enclose the~~

1 ~~first and second envelopes shall be provided to the applicant~~
2 ~~along with instructions for including a proper form of~~
3 ~~identification in accordance with Sections 17-9-30 and~~
4 ~~17-10-1.~~

5 "For Notwithstanding the other provisions of this
6 section, for absentee ballot applicants required to reidentify
7 because they who do not appear in the voting place for which
8 they seek to vote on the county voter list at the residential
9 address provided on their absentee ballot application but do
10 appear in another voting place within the state voter
11 registration list on the county voter list at another
12 residential address, the absentee election manager shall
13 provide to the voter a third envelope of different color and
14 sufficient size to enclose the first and second envelopes
15 along with a voter reidentification form, a provisional voter
16 affirmation, and instructions in accordance with Section
17 17-10-2. Such ballot shall be treated as a provisional ballot
18 and the term "Provisional" shall be marked on the second or
19 affidavit envelope prior to transmitting the ballot to the
20 voter. Applicants for an absentee ballot who do not appear on
21 the state voter registration list shall not be entitled to an
22 absentee ballot.

23 "Notwithstanding the other provision of this
24 section, for absentee ballot applicants who are required to
25 reidentify because their status is inactive but who appear on
26 the county voter list at the residential address provided on
27 the absentee ballot application, the absentee election manager

1 shall provide, with the other absentee balloting materials, a
2 voter reidentification form and instructions for completing
3 the form."

4 Section 2. This act shall become effective
5 immediately following its passage and approval by the
6 Governor, or its otherwise becoming law.