

HOUSE BILL No. 5017

June 29, 2005, Introduced by Reps. Sheltroun, Kehrl, Alma Smith and Farrah and referred to the Committee on House Oversight, Elections, and Ethics.

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending sections 759 and 761 (MCL 168.759 and 168.761),
section 759 as amended by 1995 PA 261 and section 761 as amended
by 1996 PA 207.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 759. (1) At any time during the 75 days before a
2 primary or special primary, but not later than 2 p.m. of the
3 ~~Saturday~~ **WEDNESDAY** immediately before the primary or special
4 primary, an elector who qualifies to vote as an absent voter, as
5 defined in section 758, may apply for an absent voter ballot. The
6 elector shall apply in person or by mail with the clerk of the
7 township, city, or village in which the elector is registered. An

1 application received before a primary or special primary may be
2 for either that primary only, or for that primary and the
3 election that follows.

4 (2) Except as otherwise provided in subsection (1), at any
5 time during the 75 days before an election, but not later than 2
6 p.m. of the ~~Saturday~~ **WEDNESDAY** before the election, an elector
7 who qualifies to vote as an absent voter, as defined in section
8 758, may apply for an absent voter ballot. The elector shall
9 apply in person or by mail with the clerk of the township, city,
10 or village in which the voter is registered.

11 (3) An application for an absent voter ballot under this
12 section may be made in any of the following ways:

13 (a) By a written request signed by the voter stating the
14 statutory grounds for making the application.

15 (b) On an absent voter ballot application form provided for
16 that purpose by the clerk of the city, township, or village.

17 (c) On a federal postcard application.

18 (4) An applicant for an absent voter ballot shall sign the
19 application. A clerk or assistant clerk shall not deliver an
20 absent voter ballot to an applicant who does not sign the

21 application. A person ~~other than~~ **SHALL NOT BE IN POSSESSION OF**

22 **A SIGNED ABSENT VOTER BALLOT APPLICATION EXCEPT FOR** the

23 applicant; a member of the applicant's immediate family; a person
24 residing in the applicant's household; a person whose job

25 normally includes the handling of mail, but only during the

26 course of his or her employment; a registered elector requested

27 by the applicant **TO RETURN THE APPLICATION;** or a clerk, assistant

1 of the clerk, or other authorized election official. ~~shall not~~
 2 ~~be in possession of a signed absent voter ballot application.~~ A
 3 registered elector who is requested by the applicant to return
 4 his or her absent voter ballot application shall sign the
 5 certificate on the absent voter ballot application.

6 (5) The clerk of the city, township, or village shall have
 7 absent voter ballot application forms available in the office of
 8 the clerk at all times and shall furnish an absent voter ballot
 9 application form to anyone upon a verbal or written request. The
 10 absent voter ballot application shall be in substantially the
 11 following form:

12 "Application for absent voter ballot for:

13 [] The primary **ELECTION** or special primary election to be
 14 held on, 19... [DATE].

15 [] The election to be held on, 19...
 16 [DATE].

17 (Check applicable election or elections)

18 I,, a qualified and registered elector of the
 19 precinct of the township of or village of
 20 or of the ward of the city of ,
 21 in the county of and state of Michigan, apply for an
 22 official ballot, or ballots, to be voted by me at the election or
 23 elections as requested in this application.

24 The statutory grounds on which I base my request are:

25 [] I expect to be absent from the community in which I am
 26 registered for the entire time the polls are open on election
 27 day.

1 [] I am physically unable to attend the polls without the
2 assistance of another.

3 [] I cannot attend the polls because of the tenets of my
4 religion.

5 [] I have been appointed an election precinct inspector in a
6 precinct other than the precinct where I reside.

7 [] I am 60 years of age or older.

8 [] I cannot attend the polls because I am confined to jail
9 awaiting arraignment or trial.

10 (Check applicable reason)

11 Send absent voter ballot to me at:

12

13 (Street No. or R.R.)

14

15 (Post Office) (State) **(ZIP CODE)**

16 My registered address.....

17 (Street No. or R.R.)

18

19 (Post Office) (State) **(ZIP CODE)**

20 Date

21 I ~~declare~~ **CERTIFY** that the statements in this absent
22 voter ballot application are true.

23

24 (Signature)

25 WARNING

26 A person making a false statement in this absent voter
27 ballot application is guilty of a misdemeanor. It is a violation

I certify that my name is, my address is, and my date of birth is; that I am delivering the absent voter ballot application of at his or her request; that I did not solicit or request to return the application; that I have not made any markings on the application; that I have not altered the application in any way; that I have not influenced the applicant; and that I am aware that a false statement in this certificate is a violation of Michigan election law.

(6) The following instructions for an applicant for an absent voter ballot shall be included with each application furnished an applicant:

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1 Step 1. After completely filling out the application, sign
2 and date the application in the place designated. Your signature
3 must appear on the application or you will not receive an absent
4 voter ballot.

5 Step 2. Deliver the application by 1 of the following
6 methods:

7 (a) Place the application in an envelope addressed to the
8 appropriate clerk and place the necessary postage upon the return
9 envelope and deposit it in the United States mail or with another
10 public postal service, express mail service, parcel post service,
11 or common carrier.

12 (b) Deliver the application personally to the **CLERK'S**
13 office, ~~of the clerk,~~ to the clerk, or to an authorized
14 assistant of the clerk.

15 (c) In either (a) or (b), a member of the immediate family
16 of the voter including a father-in-law, mother-in-law, brother-
17 in-law, sister-in-law, son-in-law, daughter-in-law, grandparent,
18 or grandchild or a person residing in the voter's household may
19 mail or deliver the application to the clerk for the applicant.

20 (d) ~~In the event~~ **IF** an applicant cannot return the
21 application in any of the above methods, the applicant may select
22 any registered elector to return the application. The person
23 returning the application must sign and return the certificate at
24 the bottom of the application.

25 (7) A person who prints and distributes absent voter ballot
26 applications shall print on the application the warning,
27 certificate of authorized registered elector returning absent

1 voter ballot application, and instructions required by this
2 section.

3 (8) A person who makes a false statement in an absent voter
4 ballot application is guilty of a misdemeanor. A person who
5 forges a signature on an absent voter ballot application is
6 guilty of a felony. A person who is not authorized in this act
7 and who both distributes absent voter ballot applications to
8 absent voters and returns those absent voter ballot applications
9 to a clerk or assistant of the clerk is guilty of a misdemeanor.

10 Sec. 761. (1) If the clerk of a city, township, or village
11 receives an application for an absent voter ballot from a person
12 registered to vote in that city, township, or village and if the
13 signature on the application agrees with the signature on the
14 registration card, the clerk immediately upon receipt of the
15 application or, if the application is received before the
16 printing of the absent voter ballots, as soon as the ballots are
17 received by the clerk, shall forward by mail, postage prepaid, or
18 shall deliver personally 1 of the ballots or set of ballots if
19 there is more than 1 kind of ballot to be voted to the applicant.
20 Absent voter ballots may be delivered to an applicant in person
21 at the **CLERK'S** office. ~~of the clerk.~~

22 (2) Notwithstanding section 759, providing that no absent
23 voter applications shall be received by the clerk after 2 p.m. on
24 the ~~Saturday~~ **WEDNESDAY** before the election, a person qualified
25 to vote as an absent voter may apply in person at the clerk's
26 office before 4 p.m. on a day preceding the election except
27 Sunday or a legal holiday to vote as an absent voter. The

1 applicant shall receive his or her absent voter ballot and vote
2 the ballot in the clerk's office. All other absent voter ballots,
3 except ballots delivered pursuant to an emergency absent voter
4 ballot application under section 759b, shall be mailed or
5 delivered to the **APPLICANT'S** registration address ~~of the~~
6 ~~applicant~~ unless the application requests delivery to an address
7 outside the city, village, or township or to a hospital or
8 similar institution, in which case the absent voter ballots shall
9 be mailed or delivered to the address given in the application.
10 However, a clerk may mail or deliver an absent voter ballot, upon
11 request of the absent voter, to a post office box if the post
12 office box is where the absent voter normally receives personal
13 mail and the absent voter does not receive mail at his or her
14 registration address.

15 (3) Absent voter ballots shall be issued in the same order
16 in which applications are received by the clerk of a city,
17 township, or village, as nearly as may be, and each ballot issued
18 shall bear the lowest number of each kind available for this
19 purpose. However, this provision does not prohibit a clerk from
20 immediately issuing an absent voter ballot to an absent voter who
21 applies in person in the clerk's office for **AN** absent voter
22 ~~ballots~~ **BALLOT**. The clerk shall enclose with the ballot or
23 ballots a return envelope properly addressed to the clerk and
24 bearing upon the back of the envelope a printed statement in
25 substantially the following form:

26 TO BE COMPLETED
27 BY THE CLERK

1 _____
 2 Name of Voter Street Address or R.R.
 3 _____
 4 City, Township or Village County

5 Ward _____ Precinct _____ Date of Election _____

6 =====
 7 TO BE COMPLETED BY THE ABSENT VOTER

8 I assert that I am a qualified and registered elector of the
 9 city, township, or village named above. I am voting as an absent
 10 voter in conformity with state election law. Unless otherwise
 11 indicated below, I personally marked the ballot enclosed in this
 12 envelope without exhibiting it to any other person.

13 I further assert that this absent voter ballot is being
 14 returned to the clerk or an assistant of the clerk by me
 15 personally; by public postal service, express mail service,
 16 parcel post service, or other common carrier; by a member of my
 17 immediate family; or by a person residing in my household.

18 DATE: _____ SIGN HERE: X _____
 19 Signature of Absent Voter

20 The above form must be signed or your vote will not be counted.
 21 AN ABSENT VOTER WHO KNOWINGLY MAKES A FALSE STATEMENT IS GUILTY
 22 OF A MISDEMEANOR.

23 =====

24 TO BE COMPLETED ONLY IF VOTER IS ASSISTED IN VOTING
 25 BY ANOTHER PERSON

26 I assisted the above named absent voter who is disabled or
 27 otherwise unable to mark the ballot in marking his or her absent
 28 voter ballot pursuant to his or her directions. The absent voter
 29 ballot was inserted in the return envelope without being
 30 exhibited to any other person.

Signature of Person Assisting Voter	Street Address or R.R.	City, Twp., or Village

A PERSON WHO ASSISTS AN ABSENT VOTER AND WHO KNOWINGLY MAKES A FALSE STATEMENT IS GUILTY OF A FELONY.

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WARNING

PERSONS WHO CAN LEGALLY BE IN POSSESSION OF AN ABSENT VOTER BALLOT ISSUED TO AN ABSENT VOTER ARE LIMITED TO THE ABSENT VOTER; A PERSON WHO IS A MEMBER OF THE ABSENT VOTER'S IMMEDIATE FAMILY OR RESIDES IN THE ABSENT VOTER'S HOUSEHOLD AND WHO HAS BEEN ASKED BY THE ABSENT VOTER TO RETURN THE BALLOT; A PERSON WHOSE JOB IT IS TO HANDLE MAIL BEFORE, DURING, OR AFTER BEING TRANSPORTED BY A PUBLIC POSTAL SERVICE, EXPRESS MAIL SERVICE, PARCEL POST SERVICE, OR COMMON CARRIER, BUT ONLY DURING THE NORMAL COURSE OF HIS OR HER EMPLOYMENT; AND THE CLERK, ASSISTANTS OF THE CLERK, AND OTHER AUTHORIZED ELECTION OFFICIALS OF THE CITY, TOWNSHIP, VILLAGE, OR SCHOOL DISTRICT. ANY OTHER PERSON IN POSSESSION OF AN ABSENT VOTER BALLOT IS GUILTY OF A FELONY.

~~———— (4) A clerk may use absent voter ballot envelop stock purchased before March 28, 1996 for the remainder of the 1996 calendar year if both of the following requirements are satisfied:~~

~~———— (a) The warning in subsection (3) that describes persons who can legally be in possession of an absent voter ballot is affixed to the outside of the envelope.~~

1 ~~—— (b) All other instructions required under subsection (3)~~
2 ~~regarding persons assisting the absent voter are inserted into~~
3 ~~the absent voter ballot envelope.~~

4 **(4)** ~~—(5)—~~ An absent voter who knowingly makes a false
5 statement on the absent voter ballot return envelope is guilty of
6 a misdemeanor. A person who assists an absent voter and who
7 knowingly makes a false statement on the absent voter ballot
8 return envelope is guilty of a felony.