

**VOTER IDENTIFICATION REQUIREMENTS**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: Dan R. Eastman**

**This act modifies the Election Code by changing requirements for voter identification in voting procedures, disposition of absentee ballots, and other election processes.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**20A-3-104**, as last amended by Chapter 177, Laws of Utah 2002

**20A-3-305**, as last amended by Chapter 167, Laws of Utah 2002

**20A-3-308**, as last amended by Chapter 340, Laws of Utah 1995

**20A-3-401**, as last amended by Chapter 228, Laws of Utah 1993

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **20A-3-104** is amended to read:

**20A-3-104. Manner of voting.**

(1) (a) Any registered voter desiring to vote shall give his name, and, if requested, his residence, to one of the election judges.

(b) If an election judge does not know the person requesting a ballot and has reason to doubt that person's identity, the judge shall request identification or have the voter identified by a known registered voter of the district.

(c) If the voter is voting for the first time in the jurisdiction or is otherwise required to present proof of identity or proof of residence as indicated by a notation in the official register, the election judge shall request proof of identity or proof of residence from the voter.

(d) If the election judge is satisfied that the voter has established proof of identity and proof of residence, the election judge shall:

(i) record the type of proof of identity or proof of residence provided by the voter in the appropriate space in the official register; and

(ii) follow the procedures of Subsection (3).

(e) If the election judge is not satisfied that the voter has established proof of identity

or proof of residence, the election judge shall:

(i) indicate on the official register that the voter failed to provide adequate proof of identity or proof of residence;

(ii) issue the voter a provisional ballot; and

(iii) follow the procedures and requirements of Section 20A-3-105.5.

~~[(e)]~~ (f) If the person's right to vote is challenged as provided in Section 20A-3-202, the judge shall follow the procedures and requirements of Section 20A-3-105.5.

(2) (a) When the voter is properly identified, the election judge in charge of the official register shall check the official register to determine whether or not the person is registered to vote.

(b) If the voter's name is not found on the official register, the election judge shall follow the procedures and requirements of Section 20A-3-105.5.

(3) If the election judge determines that the voter is registered:

(a) the election judge in charge of the official register shall:

(i) write the ballot number opposite the name of the voter in the official register; and

(ii) direct the voter to sign his name in the election column in the official register;

(b) another judge shall list the ballot number and voter's name in the pollbook; and

(c) the election judge having charge of the ballots shall:

(i) endorse his initials on the stub;

(ii) check the name of the voter on the pollbook list with the number of the stub;

(iii) hand the voter a ballot; and

(iv) allow the voter to enter the voting booth.

(4) Whenever the election officer is required to furnish more than one kind of official ballot to the voting precinct, the election judges of that voting precinct shall give the registered voter the kind of ballot that the voter is qualified to vote.

Section 2. Section **20A-3-305** is amended to read:

**20A-3-305. Mailing of ballot to voter -- Enclose self-addressed envelope --**

**Affidavit.**

(1) Upon timely receipt of an absentee voter application properly filled out and signed, or as soon after receipt of the application as the official absentee ballots for the voting precinct in which the applicant resides have been printed, the election officer shall either:

- (a) give the applicant an official absentee ballot and envelope to vote in the office; or
- (b) mail an official absentee ballot, postage paid, to the absentee voter and enclose an envelope printed as required in Subsection (2).

(2) The election officer shall ensure that:

(a) the name, official title, and post office address of the election officer is printed on the front of the envelope; and

(b) a printed affidavit in substantially the following form is printed on the back of the envelope:

"County of \_\_\_\_\_ State of \_\_\_\_\_

I, \_\_\_\_\_, solemnly swear that: I am a qualified resident voter of the \_\_\_\_\_ voting precinct in \_\_\_\_\_ County, Utah; I am entitled to vote in that voting precinct at the next election; and I am entitled by law to vote an absentee ballot. I am not a convicted felon currently incarcerated for commission of a felony.

\_\_\_\_\_  
Signature of Absentee Voter"

(3) If the election officer determines that the absentee voter is required to show proof of identity or proof of residence as indicated in the official register, the election officer shall:

- (a) issue the voter a provisional ballot in accordance with Section 20A-3-105.5;
- (b) instruct the voter to include a valid form of proof of identity and proof of residence

with the return ballot;

(c) provide the voter clear instructions on how to vote a provisional ballot; and

(d) comply with the requirements of Subsection (2).

Section 3. Section **20A-3-308** is amended to read:

**20A-3-308. Absentee ballots in the custody of election judges -- Disposition.**

(1) (a) Voting precinct election judges shall open envelopes containing absentee ballots

that are in their custody on election day at the polling places during the time the polls are open as provided in this Subsection (1).

(b) The election judges shall:

(i) first, open the outer envelope only; and

(ii) compare the signature of the voter on the application with the signature on the affidavit.

(2) (a) The judges shall carefully open and remove the absentee voter envelope so as not to destroy the affidavit on the envelope if they find that:

(i) the affidavit is sufficient;

(ii) the signatures correspond; and

(iii) the applicant is registered to vote in that voting precinct and has not voted in that election.

(b) If, after opening the absentee voter envelope, the judge finds that a provisional ballot envelope is enclosed and the voter has included proof of identity and proof of residence, the election judge shall:

(i) record the type of proof of identity and proof of residence provided by the voter in the appropriate space in the official register;

(ii) record the provisional ballot envelope number on the official register; and

(iii) place the provisional ballot envelope with the other provisional ballot envelopes to be transmitted to the county clerk.

(c) If, after opening the absentee voter envelope, the judge finds that a provisional ballot envelope is enclosed, and that the voter has not included proof of identity and proof of residence, the election judge shall:

(i) record in the official register that the voter did not include proof of identity and proof of residence;

(ii) record the provisional ballot number in the official register; and

(iii) place the provisional ballot envelope with the other provisional ballot envelopes to be transmitted to the county clerk.

~~[(b) The]~~ (d) If the absentee ballot is not a provisional ballot, the election judges shall:

(i) remove the absentee ballot from the envelope without unfolding it or permitting it to be opened or examined;

(ii) initial the stub in the same manner as for other ballots;

(iii) remove the stub from the ballot;

(iv) deposit the ballot in the ballot box; and

(v) mark the official register and pollbook to show that the voter has voted.

(3) If the election judges determine that the affidavit is insufficient, or that the signatures do not correspond, or that the applicant is not a registered voter in the voting precinct, they shall:

(a) disallow the vote; and

(b) without opening the absentee voter envelope, mark across the face of the envelope:

(i) "Rejected as defective"; or

(ii) "Rejected as not a registered voter."

(4) The election judges shall deposit the absentee voter envelope, when the absentee ballot is voted, and the absentee voter envelope with its contents unopened when the absent vote is rejected, in the ballot box containing the ballots.

(5) The election officer shall retain and preserve the absentee voter envelopes in the manner provided by law for the retention and preservation of official ballots voted at that election.

Section 4. Section **20A-3-401** is amended to read:

**20A-3-401. Intent and purpose of part.**

(1) Each election officer, election official, and judge shall liberally interpret and apply this part to:

(a) make it possible for Utah voters living or serving abroad to vote in county, state, and national elections during their absence;

(b) enable these voters to register more conveniently; ~~[and]~~

(c) conform to 42 U.S.C. 1973ff, Uniformed and Overseas Citizens Absentee Voting Act[-]; and

(d) exempt overseas and military voters from the proof of identity and proof of residence requirements of Section 20A-3-308 in accordance with Public Law 107-252, the Help America Vote Act of 2002.

(2) The state selective service, all military organizations, and citizens and officers of Utah or of the respective counties and municipalities of the state shall cooperate with the election and party officers in carrying out the intent and purpose of this part.

(3) All state and county officers of Utah shall:

(a) do all things and perform all acts necessary to put into effect the provisions of any Act of Congress or this state allowing uniformed and overseas citizen voters to vote; and

(b) permit the use of any official ballot authorized by any Act of Congress and this part as a ballot supplementary to the official Utah election military ballot.

(4) Each provision of this part prevails over any inconsistent provision of any other statute or any part of any statute.