

Public Law 99-410
99th Congress

An Act

Aug. 28, 1986
[H.R. 4393]

Uniformed and
Overseas
Citizens
Absentee Voting
Act.
42 USC 1973ff
note.

To consolidate and improve provisions of law relating to absentee registration and voting in elections for Federal office by members of uniformed services and persons who reside overseas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Uniformed and Overseas Citizens Absentee Voting Act".

**TITLE I—REGISTRATION AND VOTING BY
ABSENT UNIFORMED SERVICES
VOTERS AND OVERSEAS VOTERS IN
ELECTIONS FOR FEDERAL OFFICE**

42 USC 1973ff.
President of U.S.

SEC. 101. FEDERAL RESPONSIBILITIES.

(a) **PRESIDENTIAL DESIGNEE.**—The President shall designate the head of an executive department to have primary responsibility for Federal functions under this title.

(b) **DUTIES OF PRESIDENTIAL DESIGNEE.**—The Presidential designee shall—

State and local
governments.

(1) consult State and local election officials in carrying out this title;

(2) prescribe an official post card form, containing both an absentee voter registration application and an absentee ballot application, for use by the States as recommended in section 104;

(3) carry out section 103 with respect to the Federal write-in absentee ballot for overseas voters in general elections for Federal office;

(4) prescribe a suggested design for absentee ballot mailing envelopes for use by the States as recommended in section 104;

(5) compile and distribute (A) descriptive material on State absentee registration and voting procedures, and (B) to the extent practicable, facts relating to specific elections, including dates, offices involved, and the text of ballot questions; and

Reports.

(6) not later than the end of each year after a Presidential election year, transmit to the President and the Congress a report on the effectiveness of assistance under this title, including a statistical analysis of voter participation and a description of State-Federal cooperation.

(c) **DUTIES OF OTHER FEDERAL OFFICIALS.**—

(1) **IN GENERAL.**—The head of each Government department, agency, or other entity shall, upon request of the Presidential

designee, distribute balloting materials and otherwise cooperate in carrying out this title.

(2) **ADMINISTRATOR OF GENERAL SERVICES.**—As directed by the Presidential designee, the Administrator of General Services shall furnish official post card forms (prescribed under subsection (b)) and Federal write-in absentee ballots (prescribed under section 103).

SEC. 102. STATE RESPONSIBILITIES.

42 USC 1973ff-1.

Each State shall—

(1) permit absent uniformed services voters and overseas voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal office;

(2) accept and process, with respect to any general, special, primary, or runoff election for Federal office, any otherwise valid voter registration application from an absent uniformed services voter or overseas voter, if the application is received by the appropriate State election official not less than 30 days before the election; and

(3) permit overseas voters to use Federal write-in absentee ballots (in accordance with section 103) in general elections for Federal office.

SEC. 103. FEDERAL WRITE-IN ABSENTEE BALLOT FOR OVERSEAS VOTERS IN GENERAL ELECTIONS FOR FEDERAL OFFICE.

42 USC 1973ff-2.

(a) **IN GENERAL.**—The Presidential designee shall prescribe a Federal write-in absentee ballot (including a secrecy envelope and mailing envelope for such ballot) for use in general elections for Federal office by overseas voters who make timely application for, and do not receive, States, absentee ballots.

(b) **SUBMISSION AND PROCESSING.**—Except as otherwise provided in this title, a Federal write-in absentee ballot shall be submitted and processed in the manner provided by law for absentee ballots in the State involved. A Federal write-in absentee ballot of an overseas voter shall not be counted—

State and local governments.

(1) if the ballot is submitted from any location in the United States;

(2) if the application of the overseas voter for a State absentee ballot is received by the appropriate State election official less than 30 days before the general election; or

(3) if a State absentee ballot of the overseas voter is received by the appropriate State election official not later than the deadline for receipt of the State absentee ballot under State law.

(c) **SPECIAL RULES.**—The following rules shall apply with respect to Federal write-in absentee ballots:

(1) In completing the ballot, the overseas voter may designate a candidate by writing in the name of the candidate or by writing in the name of a political party (in which case the ballot shall be counted for the candidate of that political party).

(2) In the case of the offices of President and Vice President, a vote for a named candidate or a vote by writing in the name of a political party shall be counted as a vote for the electors supporting the candidate involved.

(3) Any abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party shall be

disregarded in determining the validity of the ballot, if the intention of the voter can be ascertained.

(d) **SECOND BALLOT SUBMISSION; INSTRUCTION TO OVERSEAS VOTER.**—An overseas voter who submits a Federal write-in absentee ballot and later receives a State absentee ballot, may submit the State absentee ballot. The Presidential designee shall assure that the instructions for each Federal write-in absentee ballot clearly state that an overseas voter who submits a Federal write-in absentee ballot and later receives and submits a State absentee ballot should make every reasonable effort to inform the appropriate State election official that the voter has submitted more than one ballot.

(e) **USE OF APPROVED STATE ABSENTEE BALLOT IN PLACE OF FEDERAL WRITE-IN ABSENTEE BALLOT.**—The Federal write-in absentee ballot shall not be valid for use in a general election if the State involved provides a State absentee ballot that—

(1) at the request of the State, is approved by the Presidential designee for use in place of the Federal write-in absentee ballot; and

(2) is made available to overseas voters at least 60 days before the deadline for receipt of the State ballot under State law.

(f) **CERTAIN STATES EXEMPTED.**—A State is not required to permit use of the Federal write-in absentee ballot, if, on and after the date of the enactment of this title, the State has in effect a law providing that—

(1) a State absentee ballot is required to be available to any voter described in section 107(5)(A) at least 90 days before the general election involved; and

(2) a State absentee ballot is required to be available to any voter described in section 107(5) (B) or (C), as soon as the official list of candidates in the general election is complete.

42 USC 1973ff-3.

SEC. 104. RECOMMENDATIONS TO THE STATES TO MAXIMIZE ACCESS TO THE POLLS BY ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS.

To afford maximum access to the polls by absent uniformed services voters and overseas voters, it is recommended that the States—

(1) use the official post card form (prescribed under section 101) for simultaneous voter registration application and absentee ballot application;

(2) adopt the suggested design for absentee ballot mailing envelopes prescribed under section 101;

(3) waive registration requirements for absent uniformed services voters and overseas voters who, by reason of service or residence, do not have an opportunity to register;

(4) if an application other than an official post card form (prescribed under section 101) is required for absentee registration, provide that registration forms be sent with the absentee ballot and may be returned with it;

(5) expedite processing of balloting materials with respect to absent uniformed services voters and overseas voters;

(6) permit any oath required for a document under this title to be administered by a commissioned officer of the Armed Forces or any official authorized to administer oaths under Federal law or the law of the State or other place where the oath is administered;

Armed Forces.

(7) assure that absentee ballots are mailed to absent uniformed services voters and overseas voters at the earliest opportunity;

Uniformed
services.

(8) assist the Presidential designee in compiling statistical and other information relating to this title; and

(9) provide late registration procedures for persons recently separated from the Armed Forces.

Armed Forces.

SEC. 105. ENFORCEMENT.

42 USC 1973ff-4.

The Attorney General may bring a civil action in an appropriate district court for such declaratory or injunctive relief as may be necessary to carry out this title.

SEC. 106. EFFECT ON CERTAIN OTHER LAWS.

Taxes.

The exercise of any right under this title shall not affect, for purposes of any Federal, State, or local tax, the residence or domicile of a person exercising such right.

42 USC 1973ff-5.

SEC. 107. DEFINITIONS.

42 USC 1973ff-6.

As used in this title, the term—

(1) “absent uniformed services voter” means—

(A) a member of a uniformed service on active duty who, by reason of such active duty, is absent from the place of residence where the member is otherwise qualified to vote;

(B) a member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote; and

(C) a spouse or dependent of a member referred to in subparagraph (A) or (B) who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote;

(2) “balloting materials” means official post card forms (prescribed under section 101), Federal write-in absentee ballots (prescribed under section 103), and any State balloting materials that, as determined by the Presidential designee, are essential to the carrying out of this title;

(3) “Federal office” means the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(4) “member of the merchant marine” means an individual (other than a member of a uniformed service or an individual employed, enrolled, or maintained on the Great Lakes or the inland waterways)—

(A) employed as an officer or crew member of a vessel documented under the laws of the United States, or a vessel owned by the United States, or a vessel of foreign-flag registry under charter to or control of the United States; or

(B) enrolled with the United States for employment or training for employment, or maintained by the United States for emergency relief service, as an officer or crew member of any such vessel;

(5) “overseas voter” means—

(A) an absent uniformed services voter who, by reason of active duty or service is absent from the United States on the date of the election involved;

(B) a person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States; or

(C) a person who resides outside the United States and (but for such residence) would be qualified to vote in the last place in which the person was domiciled before leaving the United States.

(6) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa;

(7) "uniformed services" means the Army, Navy, Air Force, Marine Corps, and Coast Guard, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration; and

(8) "United States", where used in the territorial sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

TITLE II—POSTAL, CRIMINAL, AND GENERAL PROVISIONS

SEC. 201. AMENDMENTS TO TITLE 39, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 34 of title 39, United States Code, is amended by adding at the end the following new section:

39 USC 3406.

"§ 3406. Balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act

"(a) Balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act (individually or in bulk)—

"(1) shall be carried expeditiously and free of postage; and

39 USC 406.

"(2) may be mailed at a post office established outside the United States under section 406 of this title, unless such mailing is prohibited by treaty or other international agreement of the United States.

"(b) As used in this section, the term 'balloting materials' has the meaning given that term in section 107 of the Uniformed and Overseas Citizens Absentee Voting Act."

(b) TECHNICAL AMENDMENTS.—

(1) The table of sections for chapter 34 of title 39, United States Code, is amended by adding at the end the following new item:

"3406. Balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act."

(2) The first sentence of section 2401(c) of title 39, United States Code, is amended—

(A) by striking out "3405" and inserting in lieu thereof "3406"; and

Post, p. 930.

(B) by striking out "the Overseas Citizens Voting Rights Act of 1975, and the Federal Voting Assistance Act of 1955".

Post, p. 930.

(3) Section 3627 of title 39, United States Code, is amended—

(A) by striking out "3405" and inserting in lieu thereof "3406"; and

(B) by striking out “under the Federal Voting Assistance Act of 1955, or under the Overseas Citizens Voting Rights Act of 1975”.

(4) Section 3684 of title 39, United States Code, is amended by striking out “, or of the Federal Voting Assistance Act of 1955”.

SEC. 202. AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) **IN GENERAL.**—Chapter 29 of title 18, United States Code, is amended by adding at the end the following new sections:

Law
enforcement and
crime.

“§ 608. Absent uniformed services voters and overseas voters

18 USC 608.

“(a) Whoever knowingly deprives or attempts to deprive any person of a right under the Uniformed and Overseas Citizens Absentee Voting Act shall be fined in accordance with this title or imprisoned not more than five years, or both.

“(b) Whoever knowingly gives false information for the purpose of establishing the eligibility of any person to register or vote under the Uniformed and Overseas Citizens Absentee Voting Act, or pays or offers to pay, or accepts payment for registering or voting under such Act shall be fined in accordance with this title or imprisoned not more than five years, or both.

“§ 609. Use of military authority to influence vote of member of Armed Forces

18 USC 609.

“Whoever, being a commissioned, noncommissioned, warrant, or petty officer of an Armed Force, uses military authority to influence the vote of a member of the Armed Forces or to require a member of the Armed Forces to march to a polling place, or attempts to do so, shall be fined in accordance with this title or imprisoned not more than five years, or both. Nothing in this section shall prohibit free discussion of political issues or candidates for public office.”

Freedom of
speech.

(b) **TECHNICAL AMENDMENT.**—The table of sections for chapter 29 of title 18, United States Code, is amended by adding at the end the following:

“608. Absent uniformed services voters and overseas voters.

“609. Use of military authority to influence vote of member of Armed Forces.”.

SEC. 203. REPEALS.

The Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc et seq.) and the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd et seq.) are repealed.

42 USC 1973ff
note.

SEC. 204. EFFECTIVE DATE.

The amendments and repeals made by this Act shall apply with respect to elections taking place after December 31, 1987.

Approved August 28, 1986.

LEGISLATIVE HISTORY—H.R. 4393:

HOUSE REPORTS: No. 99-765 (Comm. on House Administration).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 12, considered and passed House.
Aug. 15, considered and passed Senate.