

116TH CONGRESS
2D SESSION

S. 4652

To require the United States Postal Service to treat election mail as first-class mail and deliver such mail at no cost to the sender, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22, 2020

Ms. KLOBUCHAR introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To require the United States Postal Service to treat election mail as first-class mail and deliver such mail at no cost to the sender, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Election Mail Act of
5 2020”.

6 **SEC. 2. ELECTION MAIL.**

7 (a) TREATMENT OF ELECTION MAIL.—

8 (1) TREATMENT AS FIRST-CLASS MAIL; FREE
9 POSTAGE.—Chapter 34 of title 39, United States

1 Code, is amended by adding at the end the fol-
 2 lowing:

3 **“§ 3407. Domestic election mail**

4 “(a) DEFINITION.—In this section, the term ‘election
 5 mail’—

6 “(1) means—

7 “(A) a blank or completed voter registra-
 8 tion application form, voter registration card, or
 9 similar materials, relating to an election for
 10 Federal office;

11 “(B) a blank or completed absentee and
 12 other mail-in ballot application form, and a
 13 blank or completed absentee or other mail-in
 14 ballot, relating to an election for Federal office,
 15 and

16 “(C) other materials relating to an election
 17 for Federal office that are mailed by a State or
 18 local election official to an individual who is
 19 registered to vote; and

20 “(2) does not include balloting materials cov-
 21 ered under section 3406 (relating to the Uniformed
 22 and Overseas Citizens Absentee Voting Act).

23 “(b) CARRIAGE OF ELECTION MAIL.—Election mail
 24 (individually or in bulk) shall be carried—

1 “(1) in accordance with the service standards
 2 established for first-class mail under section 3691;
 3 and

4 “(2) free of postage.

5 “(c) POSTMARK REQUIRED FOR BALLOTS.—In the
 6 case of any election mail carried by the Postal Service that
 7 consists of a ballot, the Postal Service shall indicate on
 8 the ballot envelope, using a postmark or otherwise—

9 “(1) the fact that the ballot was carried by the
 10 Postal Service; and

11 “(2) the date on which the ballot was mailed.”.

12 (2) REIMBURSEMENT OF POSTAL SERVICE FOR
 13 REVENUE FORGONE.—Section 2401(c) of title 39,
 14 United States Code, is amended by striking “3406”
 15 and inserting “3407”.

16 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 17 The table of sections for chapter 34 of title 39, United
 18 States Code, is amended by adding at the end the fol-
 19 lowing:

“3407. Domestic election mail.”.

20 (c) EFFECTIVE DATE.—

21 (1) IN GENERAL.—The amendments made by
 22 this section shall apply to election mail relating to
 23 an election for Federal office occurring on or after
 24 January 1, 2022.

1 (2) SENSE OF CONGRESS RELATING TO APPLI-
 2 CATION TO 2020 GENERAL ELECTION.—It is the
 3 sense of Congress that the United States Postal
 4 Service should make all reasonable efforts to comply
 5 with subsections (b)(1) and (c) of section 3407 of
 6 title 39, United States Code, as added by subsection
 7 (a)(1) of this section, with respect to election mail
 8 relating to the general election for Federal office in
 9 2020.

10 **SEC. 3. INTELLIGENT MAIL BARCODES FOR BALLOTS.**

11 (a) IN GENERAL.—Title III of the Help America
 12 Vote Act of 2002 (52 U.S.C. 21081) is amended by adding
 13 at the end the following new subtitle:

14 **“Subtitle C—Requirements**
 15 **Relating to Mailed Ballots**

16 **“SEC. 321. USE OF INTELLIGENT MAIL BARCODES.**

17 “(a) IN GENERAL.—Each State and jurisdiction shall
 18 provide with each ballot for an election for Federal office
 19 that is sent by mail a return envelope that contains an
 20 intelligent mail barcode, as prescribed by the United
 21 States Postal Service.

22 “(b) EXCEPTION.—Subsection (a) shall not apply to
 23 any ballot for which a State or jurisdiction uses an alter-
 24 native system that enables voters to track the ballot
 25 through the mail.

1 “(c) STATE.—For purposes of this section, the term
 2 ‘State’ includes the District of Columbia, the Common-
 3 wealth of Puerto Rico, Guam, American Samoa, the
 4 United States Virgin Islands, and the Commonwealth of
 5 the Northern Mariana Islands.”.

6 (b) ENFORCEMENT.—Section 401 of the Help Amer-
 7 ica Vote Act of 2002 (52 U.S.C. 21111) is amended by
 8 inserting “or the requirements for mailed ballots under
 9 subtitle C of title III” before the period at the end.

10 (c) CLERICAL AMENDMENT.—The table of contents
 11 of such Act is amended by inserting after the item relating
 12 to section 312 the following:

“Subtitle C—Requirements Relating to Mailed Ballots

“Sec. 321. Use of intelligent mail barcodes.”.

13 **SEC. 4. DEADLINES FOR BALLOTS SUBMITTED BY MAIL.**

14 (a) IN GENERAL.—Subtitle C of title III of the Help
 15 America Vote Act of 2002, as added by section 3, is
 16 amended by adding at the end the following new section:

17 **“SEC. 322. DEADLINE FOR BALLOTS SUBMITTED BY MAIL.**

18 “(a) IN GENERAL.—Each State and jurisdiction shall
 19 count a ballot submitted by an individual by mail with re-
 20 spect to an election for Federal office in the State—

21 “(1) if it is postmarked, signed, or otherwise in-
 22 dicated by the United States Postal Service to have
 23 been mailed on or before the close of polls on the
 24 date of the election; and

1 “(2) received by the appropriate State election
2 official on or before the date that is 10 days after
3 the date of such election.

4 “(b) NO INFERENCE.—Nothing in this section shall
5 be construed as prohibiting a State or jurisdiction from
6 having a law that allows for counting ballots in an election
7 for Federal office that are received through the mail after
8 the date that is 10 days after the date of the election.”.

9 (b) PRIVATE RIGHT OF ACTION.—Title IV of the
10 Help America Vote Act of 2002 (52 U.S.C. 21111 et seq.)
11 is amended by adding at the end the following new section:

12 **“SEC. 403. PRIVATE RIGHT OF ACTION FOR VIOLATIONS OF**
13 **MAIL-IN BALLOT DEADLINE.**

14 “(a) IN GENERAL.—In the case of a violation of sec-
15 tion 322, section 402 shall not apply and any person who
16 is aggrieved by such violation may provide written notice
17 of the violation to the chief election official of the State
18 involved.

19 “(b) RELIEF.—If the violation is not corrected within
20 5 days after receipt of the notice, the aggrieved person
21 may, in a civil action, obtain declaratory or injunctive re-
22 lief with respect to the violation.

23 “(c) NOTICE NOT REQUIRED.—The aggrieved person
24 need not provide notice to the chief election official of the

1 State involved under subsection (a) before bringing a civil
 2 action under subsection (b).”.

3 (c) CLERICAL AMENDMENTS.—The table of contents
 4 of such Act, as amended by section 3, is amended—

5 (1) by inserting after the item relating to sec-
 6 tion 321 the following new item:

“Sec. 322. Deadline for ballots submitted by mail.”;

7 and

8 (2) by inserting after the item relating to sec-
 9 tion 402 the following:

“Sec. 403. Private right of action for violations of mail-in ballot deadline.”.

10 **SEC. 5. GREATER VISIBILITY FOR BALLOTS.**

11 (a) IN GENERAL.—Subtitle C of title III of the Help
 12 America Vote Act of 2002, as added by section 3 and
 13 amended by section 4, is amended by adding at the end
 14 the following new section:

15 **“SEC. 323. BALLOT VISIBILITY.**

16 “Each State or local election official shall—

17 “(1) affix Tag 191, Domestic and International
 18 Mail-In Ballots (or any successor tag designated by
 19 the United States Postal Service), to any tray or
 20 sack of ballot mail relating to an election for Federal
 21 office that is destined for a domestic or international
 22 address;

23 “(2) use the Official Election Mail logo to des-
 24 ignate mail pieces relating to an election for Federal

1 office that is destined for a domestic or international
 2 address; and

3 “(3) if an intelligent mail barcode (as described
 4 in section 321) is utilized for any mail relating to an
 5 election for Federal office that is destined for a do-
 6 mestic or international address, ensure the specific
 7 ballot service type identifier for such mail is visi-
 8 ble.”.

9 (b) CLERICAL AMENDMENT.—The table of contents
 10 for such Act, as amended by sections 3 and 4, is amended
 11 by inserting after the item relating to section 322 the fol-
 12 lowing new item:

“Sec. 323. Ballot visibility.”.

13 **SEC. 6. EFFECTIVE DATE.**

14 (a) IN GENERAL.—Subtitle C of title III of the Help
 15 America Vote Act of 2002 (52 U.S.C. 20901 et seq.), as
 16 added by section 3 and amended by sections 4 and 5, is
 17 amended by adding at the end the following new section:

18 **“SEC. 324. EFFECTIVE DATE.**

19 “The requirements of this subtitle shall apply to elec-
 20 tions for Federal office occurring on and after January
 21 1, 2022.”.

22 (b) CLERICAL AMENDMENT.—The table of contents
 23 for such Act, as amended by sections 3, 4, and 5, is

1 amended by inserting after the item relating to section
2 323 the following new item:

“Sec. 324. Effective date.”.

3 (c) SENSE OF CONGRESS RELATING TO APPLICATION
4 TO 2020 GENERAL ELECTION.—It is the sense of Con-
5 gress that States and jurisdictions should make all reason-
6 able efforts to comply with the provisions of subtitle C of
7 title III of the Help America Vote Act of 2002, as added
8 by this Act, for the general election for Federal office in
9 2020.

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