SENATE BILL No. 1219

July 18, 2012, Introduced by Senators BOOHER and ROBERTSON and referred to the Committee on Local Government and Elections.

A bill to amend 1954 PA 116, entitled

"Michigan election law,"

by amending sections 523 and 759 (MCL 168.523 and 168.759),

section 523 as amended by 2005 PA 71 and section 759 as amended

by 1995 PA 261, and by adding section 766a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1   Sec. 523. (1) At each election, before being given a ballot,

2 each registered elector offering to vote shall identify himself

3 or herself by presenting an official state identification card

4 issued to that individual ~~pursuant to Act No. 222 of the Public~~

5 ~~Acts of 1972, being sections 28.291 to 28.295 of the Michigan~~

6 ~~Compiled Laws,~~ **UNDER 1972 PA 222, MCL 28.291 TO 28.300,** an

7 operator's or chauffeur's license issued to that individual

8 ~~pursuant to~~ **UNDER** the Michigan vehicle code, ~~Act No. 300 of the~~

1 ~~Public Acts of 1949, being sections 257.1 to 257.923 of the~~

2 ~~Michigan Compiled Laws,~~ **1949 PA 300, MCL 257.1 TO 257.923,** or

3 other generally recognized picture identification card and by

4 executing an application**,** ~~showing his or her signature or mark~~

5 ~~and address of residence~~ **ON A FORM PRESCRIBED BY THE SECRETARY OF**

6 **STATE,** in the presence of an election official ~~.~~ **WHICH INCLUDES**

7 **ALL OF THE FOLLOWING:**

8   **(A) THE NAME OF THE ELECTOR.**

9   **(B) THE ELECTOR'S ADDRESS OF RESIDENCE.**

10   **(C) THE ELECTOR'S DATE OF BIRTH.**

11   **(D) AN AFFIRMATIVE STATEMENT BY THE ELECTOR INDICATING THAT**

12 **HE OR SHE IS A CITIZEN OF THE UNITED STATES.**

13   **(E) THE ELECTOR'S SIGNATURE OR MARK.**

14   **(2) IF AN ELECTOR DOES NOT AFFIRMATIVELY STATE ON THE**

15 **APPLICATION THAT HE OR SHE IS A CITIZEN OF THE UNITED STATES,**

16 **THAT ELECTOR SHALL BE CHALLENGED BY AN ELECTION INSPECTOR. IF THE**

17 **ELECTOR FAILS TO STATE UNDER OATH THAT HE OR SHE IS A CITIZEN OF**

18 **THE UNITED STATES, THAT ELECTOR SHALL NOT BE ISSUED A BALLOT.**

19   **(3)** If an elector's signature contained in the qualified

20 voter file is available in the polling place, the election

21 official shall compare the signature upon the application with

22 the digitized signature provided by the qualified voter file. If

23 an elector's signature is not contained in the qualified voter

24 file, the election official shall process the application in the

25 same manner as applications are processed when a voter

26 registration list is used in the polling place. If voter

27 registration lists are used in the precinct, the election

1 inspector shall determine if the name on the application to vote

2 appears on the voter registration list. If the name appears on

3 the voter registration list, the elector shall provide further

4 identification ~~by giving his or her date of birth~~ or other

5 information stated upon the voter registration list. ~~In precincts~~

6 ~~using voter registration lists, the date of birth may be required~~

7 ~~to be placed on the application to vote.~~ If the signature or an

8 item of information **, OTHER THAN CITIZENSHIP,** does not correspond,

9 the vote of the person shall be challenged, and the same

10 procedure shall be followed as provided in this act for the

11 challenging of an elector. ~~If the person offering to vote has~~

12 ~~signed the registration card or application by making a mark, the~~

13 ~~person shall identify himself or herself by giving his or her~~

14 ~~date of birth, which shall be compared with the date of birth~~

15 ~~stated upon the registration card or voter registration list, or~~

16 ~~shall give other identification as may be referred to upon the~~

17 ~~registration card or voter registration list.~~ If the elector does

18 not have an official state identification card, operator's or

19 chauffeur's license **,** ~~as required in this subsection,~~ or other

20 generally recognized picture identification card **AS REQUIRED**

21 **UNDER THIS SUBSECTION**, the individual shall sign an affidavit to

22 that effect before an election inspector and be allowed to vote

23 as otherwise provided in this act. However, an elector being

24 allowed to vote without the identification required under this

25 subsection is subject to challenge as provided in section 727.

26   **(4)** ~~(2)~~ If, upon a comparison of the signature or other

27 identification as required in ~~subsection (1),~~ **THIS SECTION,** it is

1 found that the applicant is entitled to vote, the election

2 officer having charge of the registration list shall approve the

3 application and write his or her initials on the application,

4 after which the number on the ballot issued shall be noted on the

5 application. The application shall serve as 1 of the 2 poll lists

6 required to be kept as a record of a person who has voted. The

7 application shall be filed with the township, city, or village

8 clerk. If voter registration cards are used in the precinct, the

9 date of the election shall be noted by 1 of the election

10 officials upon the precinct registration card of each elector

11 voting at an election. If voter registration lists are used in

12 the precinct, the election official shall clearly indicate upon

13 the list each elector voting at that election. The clerk of a

14 city, village, or township shall maintain a record of voting

15 participation for each registered elector.

16   Sec. 759. (1) At any time during the 75 days before a

17 primary or special primary, but not later than 2 p.m. of the

18 Saturday immediately before the primary or special primary, an

19 elector who qualifies to vote as an absent voter, as defined in

20 section 758, may apply for an absent voter ballot. The elector

21 shall apply in person or by mail with the clerk of the township,

22 city, or village in which the elector is registered. An

23 application received before a primary or special primary may be

24 for either that primary only, or for that primary and the

25 election that follows.

26   (2) Except as otherwise provided in subsection (1), at

27 anytime during the 75 days before an election, but not later than

1   2 p.m. of the Saturday before the election, an elector who

2   qualifies to vote as an absent voter, as defined in section 758,

3   may apply for an absent voter ballot. The elector shall apply in

4   person or by mail with the clerk of the township, city, or

5   village in which the voter is registered.

6   (3) An application for an absent voter ballot under this

7   section may be made in any of the following ways:

8   (a) By a written request signed by the voter stating the

9   statutory grounds for making the application.

10   (b) On an absent voter ballot application form provided for

11   that purpose by the clerk of the city, township, or village.

12   (c) On a federal postcard application.

13   (4) An applicant for an absent voter ballot shall sign the

14   application. A clerk or assistant clerk shall not deliver an

15   absent voter ballot to an applicant who does not sign the

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

17   **SIGNED ABSENT VOTER BALLOT APPLICATION EXCEPT FOR** the applicant;

18   a member of the applicant's immediate family; a person residing

19   in the applicant's household; a person whose job normally

20   includes the handling of mail, but only during the course of his

21   or her employment; a registered elector requested by the

22   applicant **TO RETURN THE APPLICATION**; or a clerk, assistant of the

23   clerk, or other authorized election official. ~~shall not be in~~

24   ~~possession of a signed absent voter ballot application.~~ A

25   registered elector who is requested by the applicant to return

26   his or her absent voter ballot application shall sign the

27   certificate on the absent voter ballot application.

1   (5) The clerk of ~~the~~ **A** city, township, or village shall have

2 absent voter ballot application forms available in the **CLERK'S**

3 office ~~of the clerk~~ at all times and shall furnish an absent

4 voter ballot application form to anyone upon a verbal or written

5 request. The absent voter ballot application shall be in

6 substantially the following form:

7   "Application for absent voter ballot for:

8   [ ] The primary or special primary election to be held on

9 ~~..... , 19... .~~_____ **(DATE).**

10   [ ] The election to be held on ~~..... , 19... .~~_____

11 **(DATE).**

12   (Check applicable election or elections)

13   I, ... , a qualified and

14 registered elector of the .... precinct of the township

15 of .... or village of .... or of the ....

16 ward of the city of .... , in the

17 county of .... and state of

18 Michigan, apply for an official ballot, or ballots, to be voted

19 by me at the election or elections as requested in this

20 application.

21   **ARE YOU A UNITED STATES CITIZEN? [ ] YES [ ] NO**

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

23   [ ] I expect to be absent from the community in which I am

24 registered for the entire time the polls are open on election

25 day.

26   [ ] I am physically unable to attend the polls without the

27 assistance of another.

1   [   ] I cannot attend the polls because of the tenets of my

2 religion.

3   [   ] I have been appointed an election precinct inspector in

4 a precinct other than the precinct where I reside.

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

6   [   ] I cannot attend the polls because I am confined to jail

7 awaiting arraignment or trial.

8   (Check applicable reason)

9   Send absent voter ballot to me at:

10   ....
11   (Street No. or R.R.)

12   ....
13   (Post Office)   (State)   **(ZIP CODE)**

14   My registered address ....
15   (Street No. or R.R.)

16   ....
17   (Post Office)   (State) **(ZIP CODE)**

18   Date...

19   I ~~declare~~ **CERTIFY** that the statements in this absent voter

20   ballot application are true.

21   ....
22   (Signature)

23   WARNING

24   **IF YOU ANSWER THAT YOU ARE NOT A CITIZEN OF THE UNITED**

25 **STATES, YOU WILL NOT BE ISSUED AN ABSENT VOTER BALLOT. IF YOU DO**

26 **NOT ANSWER THE CITIZENSHIP QUESTION ON THIS APPLICATION, AN**

27 **ABSENT VOTER BALLOT WILL BE ISSUED TO YOU, BUT THE BALLOT WILL**

28 **NOT BE COUNTED UNLESS YOU ANSWER THE CITIZENSHIP QUESTION IN**

29 **WRITING TO THE CLERK BEFORE THE POLLS CLOSE ON ELECTION DAY.**

30   A person making a false statement in this absent voter

1 ballot application is guilty of a misdemeanor. It is a violation

2 of Michigan election law for a person other than those listed in

3 the instructions to return, offer to return, agree to return, or

4 solicit to return your absent voter ballot application to the

5 clerk. An assistant authorized by the clerk who receives absent

6 voter ballot applications at a location other than the **CLERK'S**

7 office ~~of the clerk~~ must have credentials signed by the clerk.

8 Ask to see his or her credentials before entrusting your

9 application with a person claiming to have the clerk's

10 authorization to return your application.

11   Certificate of Authorized Registered

12   Elector Returning Absent Voter

13   Ballot Application

14   I certify that my name is .... , my address

15 is .... , and my date of birth is .... ;

16 that I am delivering the absent voter ballot application of

17 .... at his or her request; that I did not

18 solicit or request to return the application; that I have not

19 made any markings on the application; that I have not altered the

20 application in any way; that I have not influenced the applicant;

21 and that I am aware that a false statement in this certificate is

22 a violation of Michigan election law.

23   _____   _____

24   (Date)   (Signature)"

25   (6) The following instructions for an applicant for an

1 absent voter ballot shall be included with each application

2 furnished an applicant:

3   INSTRUCTIONS FOR APPLICANTS FOR ABSENT VOTER BALLOTS

4   Step 1. After completely filling out the application, sign

5 and date the application in the place designated. Your signature

6 must appear on the application or you will not receive an absent

7 voter ballot.

8   Step 2. Deliver the application by 1 of the following

9 methods:

10   (a) Place the application in an envelope addressed to the

11 appropriate clerk and place the necessary postage upon the return

12 envelope and deposit it in the United States mail or with another

13 public postal service, express mail service, parcel post service,

14 or common carrier.

15   (b) Deliver the application personally to the **CLERK'S**

16 office**,** ~~of the clerk,~~ to the clerk, or to an authorized assistant

17 of the clerk.

18   (c) In either (a) or (b), a member of the immediate family

19 of the voter including a father-in-law, mother-in-law, brother-

20 in-law, sister-in-law, son-in-law, daughter-in-law, grandparent,

21 or grandchild or a person residing in the voter's household may

22 mail or deliver the application to the clerk for the applicant.

23   (d) ~~In the event~~ **IF** an applicant cannot return the

24 application in any of the above methods, the applicant may select

25 any registered elector to return the application. The person

1 returning the application must sign and return the certificate at

2 the bottom of the application.

3   (7) A person who prints and distributes absent voter ballot

4 applications shall print on the application the warning,

5 certificate of authorized registered elector returning absent

6 voter ballot application, and instructions required by this

7 section.

8   (8) A person who makes a false statement in an absent voter

9 ballot application is guilty of a misdemeanor. A person who

10 forges a signature on an absent voter ballot application is

11 guilty of a felony. A person who is not authorized in this act

12 and who both distributes absent voter ballot applications to

13 absent voters and returns those absent voter ballot applications

14 to a clerk or assistant of the clerk is guilty of a misdemeanor.

15   **SEC. 766A. IF AN ELECTION IS CONTESTED IN A COURT, AN ABSENT**

16 **VOTER BALLOT THAT WAS NOT COUNTED BECAUSE THE ABSENT VOTER DID**

17 **NOT ANSWER THE CITIZENSHIP QUESTION IN WRITING TO THE CLERK**

18 **BEFORE THE POLLS CLOSED ON ELECTION DAY, AS REQUIRED UNDER**

19 **SECTION 759, MAY BE COUNTED IF THE COURT DETERMINES THAT THE**

20 **VOTER WAS A CITIZEN AT THE TIME OF THE ELECTION IN QUESTION.**

21   Enacting section 1. This amendatory act takes effect August

22 15, 2012.