WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1966

ENROLLED

HOUSE BILL No. 306

(By Mr. Board)

PASSED February 10, 1966

In Effect from Passage

FILLED IN THE OFFICE
HUGH D. BAILEY
SECRETARY OF STATE
1/8 DATE 2-15-66
ENROLLED

House Bill No. 306
(By Mr. Board)

[Passed February 10, 1966; in effect from passage.]

AN ACT to amend and reenact sections one, three, five and seven, article three, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to voting of persons outside the continental limits of the United States.

Be it enacted by the Legislature of West Virginia:

That sections one, three, five and seven, article three, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 3. Voting by Absentees.

Section 1. Persons Eligible to Vote as Absentees.—

2 Any qualified voter of the state of West Virginia, being
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3 duly registered, (a) who by reason of the nature of his 
4 employment, business, or on account of other unavoid- 
5 able causes, which cause or causes shall be stated in the 
6 application for an absentee ballot—expects to be absent 
7 from the county on the date of any primary, general or 
8 special election, (b) who by reason of physical disability, 
9 illness or injury will be unable to vote in person at the 
10 polls at such election as otherwise required by law, (c) 
11 who is a student attending any college or university, or 
12 is the spouse of any such student, outside the county 
13 wherein he or she is legally registered to vote, or (d) who 
14 is: (1) A member of the armed forces of the United 
15 States; (2) a member of the merchant marine of the 
16 United States; (3) a member of a religious or welfare 
17 organization assisting servicemen; (4) a civilian employed 
18 by the United States government outside the United States 
19 (continental); (5) a spouse or dependent of a person 
20 listed in (1), (2) or (3) above; (6) a spouse or dependent 
21 residing with a person described in (4) above; may vote 
22 by absent voter's ballot as provided in this article, at any 
23 such election.
The provisions of this article shall apply only to voters necessarily absent from the county or from the polls on election day for the reasons specified in this section.

Sec. 3. Form of Application; Declaration; Physician's Statement as to Disability.—(a) Application for an absent voter's ballot shall be made in person or by mail, on a blank to be furnished by the clerk of any circuit court of the state. Such blank shall, upon request, be sent to the applicant by mail by any such clerk, or delivered to such applicant in person upon his appearance at the office of any such clerk. Such completed application may be returned only to the clerk of the circuit court of the county in which the applicant is a qualified elector.

Application for an absent voter's ballot shall be substantially in the following form, and shall be signed by the applicant, as hereinafter provided:

APPLICATION FOR ABSENT VOTER'S BALLOT

State of ..............................................

County of ..........................................., to wit;

I, ...................................................., hereby declare that I
am now, or will have been, a resident of the State of
West Virginia for twelve months, and of the county of
____________________ for sixty days, next preceding the date of
the ensuing election to be held on the __________ day of
____________________ 19________; that I am now a resident of
election precinct No. __________, in the magisterial district
of __________, in said county; that I am a duly qualified
voter entitled to vote in such election; that I am registered
in the precinct of my residence as provided by law; that
(as the case may be) I am ________________________________
(stating business), and because of the nature of my busi-
ness or employment, or for the following reasons ______
________________ (relating unavoidable cause of absence),
I expect to be absent from the said county on the date
of such election, or I am a (college or university student,
member of armed forces, spouse, etc., as specified in
section one of this article) and will be unable to vote
in person at such election, or because of physical dis-
ability, illness or injury (here state reason, whether
physical disability, illness or injury) I will be unable
to vote in person at such election, as evidenced below
by the statement of a duly licensed physician; and I hereby make application for an official ballot (or ballots if more than one are to be used) to be voted by me at such election; and that I will return such ballot (or ballots) to the officer issuing them not later than four days prior to the day of such election.

(If application is made for a primary ballot, the applicant shall also designate the party whose candidates he expects to vote for:)

I hereby declare under penalty of false swearing, as provided in section three, article nine, chapter three of the Code of West Virginia, as amended, that the statements and declarations contained in this application are true and correct to the best of my knowledge and belief.

Signed_____________________________

Home address of applicant______________________________
P. O. address to which ballot is to be sent______________________________

The following statement must be executed if the reason stated is physical disability of the voter:

STATEMENT OF PHYSICIAN

I, ________________________________, a physician duly licensed to
practice in the State of ________________, do hereby certify under penalty of false swearing, as provided in section three, article nine, chapter three of the Code of West Virginia, as amended, that I have examined ________________, the applicant whose signature appears above, and that in my opinion, because of physical disability, illness or injury________________________ ...

(here state reason, whether physical disability, illness or injury), he will be unable to vote in person at such election.

Signed______________________________

The term “physician,” wherever used in this article, shall also include a chiropractor.

(b) In lieu of the application for an absent voter’s ballot, provided for in subsection (a) of this section, those persons specified in subparagraph (d) of section one of this article may use a properly completed copy of federal standard form number seventy-six, issued by the federal government under authority of Public Law No. 296, or any revision or replacement of such form, whether designated in the same or a different manner. Upon
receipt of a properly completed copy of such form, the cir-
cuit clerk shall process the same as he would any other
application for an absent voter’s ballot. Any such prop-
erly completed copy may be returned only to the clerk
of the circuit court of the county in which the appli-
cant is a qualified elector.

Sec. 5. Mailing of Ballots; Time.—Between the thir-
tieth day and the fourth day next prior to the election
in which the absent voter’s ballot is to be used, the clerk
of the circuit court of the county in which an applicant
is a qualified voter shall mail, postage prepaid, to each
duly registered applicant who has executed and filed
his application, to the address shown therein, an official
ballot or ballots (if more than one are to be voted at
such election), except that the clerk shall not, after the
fifteenth day next prior to such election, mail any such
ballot to an applicant whose address is shown to be out-
side the continental limits of the United States of Amer-
ica. All absentee ballots mailed upon the basis of appli-
cations therefor made on federal standard form num-
ber seventy-six, issued by the federal government under
authority of Public Law No. 296, or any revision or replacement of such form, whether designated in the same or a different manner, shall be mailed by the clerk in envelopes embossed with the words “Official Election Balloting Material Via Air Mail,” printed in red, with the notation in the upper right-hand corner, “Free of U. S. Postage Including Air Mail.” The clerk shall, without delay, mail all such absent voter ballots as soon after the thirtieth day next prior to the election as he shall have in his office properly executed applications therefor. The applicant may obtain the absent voter ballot or ballots by applying personally at the office of the clerk of the circuit court not more than thirty days before such election and thereafter may vote such ballot or ballots in the clerk’s office during regular business hours on any day up to and including the Saturday next preceding the date of the primary or general election or, in the case of special elections, up to and including the third day next preceding the day of any such special election. In computing the thirtieth, fifteenth, fourth and third day before the election day, the day of the election shall
be excluded. Before any ballot is mailed or delivered the clerk shall affix his official seal and he and the other members of the board of ballot commissioners shall place their signatures near the lower left-hand corner on the back thereof.

Sec. 7. Marking and Mailing Ballot by Absent Voter.—Such absent voter shall make and subscribe to the declaration provided for in section six of this article, and such voter shall thereupon, in the presence of no other person, mark such ballot or ballots, and such ballot or ballots shall then be folded by such voter so that each ballot will be separate and so as to conceal the marking, and shall be enclosed in such envelope, together with any unused ballot, and the envelope shall be securely sealed. The envelope shall then be mailed by such voter postage prepaid to the officer issuing the ballot, or, if more convenient, it may be delivered in person, or, if the voter be for any reason disabled, the envelope may be so mailed or delivered by a person selected and designated by the voter for that purpose. When any absent voter who obtained an absentee ballot or ballots upon the basis of
an application therefor made on federal standard form number seventy-six, issued by the federal government under authority of Public Law 296, or any revision or replacement of such form, whether designated in the same or a different manner, desires to return his ballot or ballots by mail, he shall mail the same in an envelope provided by the circuit clerk embossed with the words “Official Election Balloting Material Via Air Mail” printed in red, with the notation in the upper right-hand corner, “Free of U. S. Postage Including Air Mail” to the officer issuing the ballot or ballots. Any such ballot to be valid shall be received by the clerk of the circuit court of the county in time for him to deliver the same to the election commissioners before the closing of the polls.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 15th day of February, 1966.

Governor