

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1966



ENROLLED

HOUSE BILL No. 306

(By Mr. Beard)



PASSED February 10, 1966

In Effect from Passage



FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
DATE 2-15-66

306

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

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.

24 The provisions of this article shall apply only to voters
25 necessarily absent from the county or from the polls on
26 election day for the reasons specified in this section.

Sec. 3. Form of Application; Declaration; Physician's

2 **Statement as to Disability.**—(a) Application for an absent
3 voter's ballot shall be made in person or by mail, on a
4 blank to be furnished by the clerk of any circuit court of
5 the state. Such blank shall, upon request, be sent to
6 the applicant by mail by any such clerk, or delivered
7 to such applicant in person upon his appearance at the
8 office of any such clerk. Such completed application may
9 be returned only to the clerk of the circuit court of the
10 county in which the applicant is a qualified elector.
11 Application for an absent voter's ballot shall be substan-
12 tially in the following form, and shall be signed by the
13 applicant, as hereinafter provided:

14 APPLICATION FOR ABSENT

15 VOTER'S BALLOT

16 State of

17 County of, to wit;

18 I,, hereby declare that I

19 am now, or will have been, a resident of the State of
20 West Virginia for twelve months, and of the county of
21 _____ for sixty days, next preceding the date of
22 the ensuing election to be held on the _____ day of
23 _____ 19____; that I am now a resident of
24 election precinct No. _____, in the magisterial district
25 of _____, in said county; that I am a duly qualified
26 voter entitled to vote in such election; that I am registered
27 in the precinct of my residence as provided by law; that
28 (as the case may be) I am _____
29 (stating business), and because of the nature of my busi-
30 ness or employment, or for the following reasons _____
31 _____ (relating unavoidable cause of absence),
32 I expect to be absent from the said county on the date
33 of such election, or I am a (college or university student,
34 member of armed forces, spouse, etc., as specified in
35 section one of this article) and will be unable to vote
36 in person at such election, or because of physical dis-
37 ability, illness or injury (here state reason, whether
38 physical disability, illness or injury) I will be unable
39 to vote in person at such election, as evidenced below

40 by the statement of a duly licensed physician; and I
 41 hereby make application for an official ballot (or ballots
 42 if more than one are to be used) to be voted by me at
 43 such election; and that I will return such ballot (or
 44 ballots) to the officer issuing them not later than four
 45 days prior to the day of such election.

46 (If application is made for a primary ballot, the appli-
 47 cant shall also designate the party whose candidates he
 48 expects to vote for:)

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

54 Signed.....

55 Home address of applicant

56 P. O. address to which ballot is to be sent.....

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

59 STATEMENT OF PHYSICIAN

60 I,, a physician duly licensed to

61 practice in the State of _____, do hereby
62 certify under penalty of false swearing, as provided in
63 section three, article nine, chapter three of the Code of
64 West Virginia, as amended, that I have examined
65 _____, the applicant whose
66 signature appears above, and that in my opinion, because
67 of physical disability, illness or injury.....
68 (here state reason, whether physical disability, illness
69 or injury), he will be unable to vote in person at such
70 election.

71 Signed.....

72 The term "physician," wherever used in this article,
73 shall also include a chiropractor.

74 (b) In lieu of the application for an absent voter's
75 ballot, provided for in subsection (a) of this section, those
76 persons specified in subparagraph (d) of section one of
77 this article may use a properly completed copy of federal
78 standard form number seventy-six, issued by the federal
79 government under authority of Public Law No. 296,
80 or any revision or replacement of such form, whether
81 designated in the same or a different manner. Upon

82 receipt of a properly completed copy of such form, the cir-
83 cuit clerk shall process the same as he would any other
84 application for an absent voter's ballot. Any such prop-
85 erly completed copy may be returned only to the clerk
86 of the circuit court of the county in which the appli-
87 cant is a qualified elector.

Sec. 5. Mailing of Ballots; Time.—Between the thir-
2 tieth day and the fourth day next prior to the election
3 in which the absent voter's ballot is to be used, the clerk
4 of the circuit court of the county in which an applicant
5 is a qualified voter shall mail, postage prepaid, to each
6 duly registered applicant who has executed and filed
7 his application, to the address shown therein, an official
8 ballot or ballots (if more than one are to be voted at
9 such election), except that the clerk shall not, after the
10 fifteenth day next prior to such election, mail any such
11 ballot to an applicant whose address is shown to be out-
12 side the continental limits of the United States of Amer-
13 ica. All absentee ballots mailed upon the basis of appli-
14 cations therefor made on federal standard form num-
15 ber seventy-six, issued by the federal government under

16 authority of Public Law No. 296, or any revision or
17 replacement of such form, whether designated in the
18 same or a different manner, shall be mailed by the clerk
19 in envelopes embossed with the words "Official Election
20 Balloting Material Via Air Mail," printed in red, with
21 the notation in the upper right-hand corner, "Free of
22 U. S. Postage Including Air Mail." The clerk shall, with-
23 out delay, mail all such absent voter ballots as soon after
24 the thirtieth day next prior to the election as he shall
25 have in his office properly executed applications therefor.
26 The applicant may obtain the absent voter ballot or
27 ballots by applying personally at the office of the clerk
28 of the circuit court not more than thirty days before such
29 election and thereafter may vote such ballot or ballots in
30 the clerk's office during regular business hours on any
31 day up to and including the Saturday next preceding
32 the date of the primary or general election or, in the
33 case of special elections, up to and including the third
34 day next preceding the day of any such special election.
35 In computing the thirtieth, fifteenth, fourth and third
36 day before the election day, the day of the election shall

37 be excluded. Before any ballot is mailed or delivered
38 the clerk shall affix his official seal and he and the other
39 members of the board of ballot commissioners shall place
40 their signatures near the lower left-hand corner on the
41 back thereof.

Sec. 7. Marking and Mailing Ballot by Absent Voter.

2 —Such absent voter shall make and subscribe to the
3 declaration provided for in section six of this article,
4 and such voter shall thereupon, in the presence of no
5 other person, mark such ballot or ballots, and such ballot
6 or ballots shall then be folded by such voter so that each
7 ballot will be separate and so as to conceal the marking,
8 and shall be enclosed in such envelope, together with
9 any unused ballot, and the envelope shall be securely
10 sealed. The envelope shall then be mailed by such voter
11 postage prepaid to the officer issuing the ballot, or, if more
12 convenient, it may be delivered in person, or, if the voter
13 be for any reason disabled, the envelope may be so mailed
14 or delivered by a person selected and designated by the
15 voter for that purpose. When any absent voter who ob-
16 tained an absentee ballot or ballots upon the basis of

17 an application therefor made on federal standard form
18 number seventy-six, issued by the federal government
19 under authority of Public Law 296, or any revision or
20 replacement of such form, whether designated in the
21 same or a different manner, desires to return his ballot
22 or ballots by mail, he shall mail the same in an envelope
23 provided by the circuit clerk embossed with the words
24 "Official Election Balloting Material Via Air Mail"
25 printed in red, with the notation in the upper right-hand
26 corner, "Free of U. S. Postage Including Air Mail" to the
27 officer issuing the ballot or ballots. Any such ballot to be
28 valid shall be received by the clerk of the circuit court
29 of the county in time for him to deliver the same to the
30 election commissioners before the closing of the polls.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

O. Ray Parker
Chairman Senate Committee

James W. Loop
Chairman House Committee

Originated in the House.

Takes effect from passage.

Howard Negey
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard E. Larson
President of the Senate

N. Logan White
Speaker House of Delegates

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

Archie C. Smith
Governor

OFFICE OF THE GOVERNOR
FEB 15 5:10 PM '66

PRESENTED TO THE
GOVERNOR

Date 2/15/66

Time 1:50 P.M.

FILED

FEB 15 7 53 PM '66

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA