

House Engrossed Senate Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

CHAPTER 105

SENATE BILL 1412

AN ACT

AMENDING SECTIONS 16-545, 16-547 AND 16-1005, ARIZONA REVISED STATUTES;
RELATING TO BALLOTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 16-545, Arizona Revised Statutes, is amended to
3 read:

4 16-545. Early ballot

5 A. The early ballot shall be one prepared for use in the precinct in
6 which the applicant resides and, if a partisan primary election, of the
7 political party with which the applicant is affiliated as shown by the
8 affidavit of registration. The ballot shall be identical with the regular
9 official ballots, except that it shall have printed or stamped on it "early".

10 B. The officer charged by law with the duty of preparing ballots at
11 any election shall:

12 1. Prepare the official early ballot and deliver a sufficient number
13 to the recorder or other officer in charge of elections not later than the
14 thirty-third day before the election. Except as provided in section 16-542,
15 subsection D, regular early ballots shall not be distributed to the general
16 public before the beginning of early voting.

17 2. ENSURE THAT THE BALLOT RETURN ENVELOPES ARE OF A TYPE THAT ARE
18 TAMPER EVIDENT WHEN PROPERLY SEALED.

19 Sec. 2. Section 16-547, Arizona Revised Statutes, is amended to read:

20 16-547. Ballot affidavit; form

21 A. The early ballot shall be accompanied by an envelope bearing ~~upon~~
22 ON the front the name, official title and post office address of the recorder
23 or other officer in charge of elections and ~~upon~~ ON the other side a printed
24 affidavit in substantially the following form:

25 State of Arizona

26
27 County of _____

28
29 I, _____, do solemnly swear that I am the identical
30 person whose name is signed to this affidavit and that this name
31 and signature are my true name and signature, or if I did not
32 personally sign, it was because of physical disability and that
33 I requested _____ (name of person signing
34 affidavit) to sign for me, that I have not voted and will not
35 vote in this election in any other state during the calendar
36 year of this affidavit and that I personally voted the enclosed
37 ballot or that it was marked according to my instructions
38 because I was unable to do so. I understand that knowingly
39 voting more than once in any election is a class 5 felony. I
40 declare that I am more than eighteen years of age, that I am a
41 qualified elector of the state of Arizona and the county of
42 _____ and that I reside at _____. If a challenge
43 is filed against my early ballot, I understand that a copy of
44 the challenge will be sent to me by first class mail and that I
45 may have as little as forty-eight hours' notice of an

1 opportunity to appear. For purposes of notifying me of a ballot
2 challenge between the time I return my ballot and seven days
3 after election day, please use the following address:
4 _____ . (If no address is provided, notice will be
5 mailed to the mailing address listed on the registration rolls.)

6 _____
7 Elector
8

9 B. The face of each envelope in which a ballot is sent to a federal
10 postcard applicant or in which a ballot is returned by such applicant to the
11 recorder or other officer in charge of elections shall be in the form
12 prescribed in accordance with the uniformed and overseas citizens absentee
13 voting act of 1986 (P.L. 99-410; 42 United States Code section 1973ff).
14 Otherwise, the envelopes shall be the same as those used to send ballots to,
15 or receive ballots from, other early voters.

16 C. The county recorder or other officer in charge of elections shall
17 supply printed instructions to early voters that direct them to sign the
18 affidavit, mark the ballot and return both in the enclosed self-addressed
19 envelope THAT COMPLIES WITH SECTION 16-545. The instructions shall include
20 the following statement:

21 In order to be valid and counted, the ballot and affidavit must
22 be delivered to the office of the county recorder or other
23 officer in charge of elections or may be deposited at any
24 polling place in the county no later than 7:00 p.m. on election
25 day.

26 WARNING-IT IS A FELONY TO OFFER OR RECEIVE ANY COMPENSATION FOR
27 A BALLOT.

28 Sec. 3. Section 16-1005, Arizona Revised Statutes, is amended to read:
29 16-1005. Ballot abuse; classification

30 A. Any person who knowingly marks or ~~punches an~~ early A VOTED OR
31 UNVOTED ballot OR BALLOT ENVELOPE with the intent to fix an election for his
32 own benefit or for that of another person is guilty of a class 5 felony.

33 B. IT IS UNLAWFUL TO OFFER OR PROVIDE ANY CONSIDERATION TO ACQUIRE A
34 VOTED OR UNVOTED EARLY BALLOT. A PERSON WHO VIOLATES THIS SUBSECTION IS
35 GUILTY OF A CLASS 5 FELONY.

36 C. IT IS UNLAWFUL TO RECEIVE OR AGREE TO RECEIVE ANY CONSIDERATION IN
37 EXCHANGE FOR A VOTED OR UNVOTED BALLOT. A PERSON WHO VIOLATES THIS
38 SUBSECTION IS GUILTY OF A CLASS 5 FELONY.

39 D. ANY PERSON WHO DELIVERS MORE THAN TEN EARLY BALLOTS TO AN ELECTION
40 OFFICIAL FOR TALLYING SHALL ALSO PROVIDE TO THE ELECTION OFFICIAL A COPY OF
41 THE PERSON'S PHOTO IDENTIFICATION. IF THE PERSON DELIVERING THE BALLOTS DOES
42 NOT PROVIDE A COPY OF THE PERSON'S PHOTO IDENTIFICATION, THE ELECTION
43 OFFICIAL SHALL RECORD THE INFORMATION FROM THE PERSON'S PHOTO IDENTIFICATION
44 AND RETAIN THE INFORMATION AS A PART OF THE RECORDS OF THE VOTING LOCATION AS
45 PRESCRIBED IN PROCEDURES ESTABLISHED BY THE SECRETARY OF STATE IN THE

1 INSTRUCTIONS AND PROCEDURES MANUAL ADOPTED PURSUANT TO SECTION 16-452.
2 WITHIN SIXTY DAYS AFTER THE ELECTION, THE OFFICER IN CHARGE OF THAT ELECTION
3 SHALL SUBMIT TO THE SECRETARY OF STATE THE PHOTOCOPIES OR OTHER ELECTRONIC
4 FACSIMILES OR OTHER INFORMATION SUBMITTED BY THE PERSONS DELIVERING THE EARLY
5 BALLOTS. THE SECRETARY OF STATE SHALL COMPILE A STATEWIDE REPORT ON THE
6 SUBMITTALS AND SHALL MAKE THAT INFORMATION AVAILABLE TO THE PUBLIC ON THE
7 SECRETARY OF STATE'S WEBSITE. THE SECRETARY OF STATE MAY MAKE ANY REFERRALS
8 TO THE APPROPRIATE PROSECUTING AGENCY FOR PURPOSES OF ENFORCING THIS CHAPTER.
9 E. IT IS UNLAWFUL TO POSSESS A VOTED OR UNVOTED BALLOT WITH THE INTENT
10 TO SELL THE VOTED OR UNVOTED BALLOT OF ANOTHER PERSON. A PERSON WHO VIOLATES
11 THIS SUBSECTION IS GUILTY OF A CLASS 5 FELONY.
12 F. A PERSON OR ENTITY WHO KNOWINGLY SOLICITS THE COLLECTION OF VOTED
13 OR UNVOTED BALLOTS BY MISREPRESENTING ITSELF AS AN ELECTION OFFICIAL OR AS AN
14 OFFICIAL BALLOT REPOSITORY OR IS FOUND TO BE SERVING AS A BALLOT DROP OFF
15 SITE, OTHER THAN THOSE ESTABLISHED AND STAFFED BY ELECTION OFFICIALS, IS
16 GUILTY OF A CLASS 5 FELONY.
17 G. A PERSON WHO KNOWINGLY COLLECTS VOTED OR UNVOTED BALLOTS AND DOES
18 NOT TURN THOSE BALLOTS IN TO AN ELECTION OFFICIAL, THE UNITED STATES POSTAL
19 SERVICE OR OTHER ENTITY PERMITTED BY LAW TO TRANSMIT POST IS GUILTY OF A
20 CLASS 5 FELONY.
21 H. A PERSON WHO ENGAGES OR PARTICIPATES IN A PATTERN OF BALLOT FRAUD
22 IS GUILTY OF A CLASS 4 FELONY. FOR THE PURPOSES OF THIS SUBSECTION, "PATTERN
23 OF BALLOT FRAUD" MEANS THE PERSON HAS OFFERED OR PROVIDED ANY CONSIDERATION
24 TO THREE OR MORE PERSONS TO ACQUIRE THE VOTED OR UNVOTED BALLOT OF A PERSON.

APPROVED BY THE GOVERNOR APRIL 13, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 13, 2011.

Passed the House April 6, 2011,

Passed the Senate March 3, 2011,

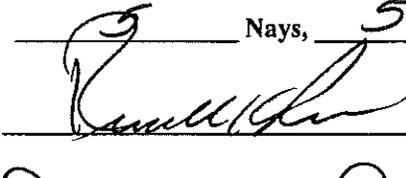
by the following vote: 39 Ayes,

by the following vote: 40 Ayes,

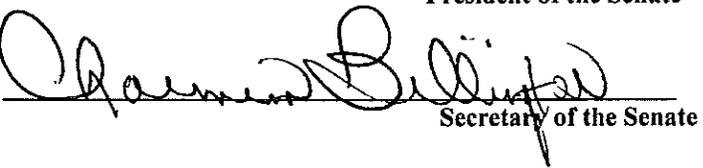
20 Nays, 1 Not Voting

9 Nays, 5 Not Voting


Speaker of the House


President of the Senate


Cheryl Laube
Chief Clerk of the House


Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this
_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

S.B. 1412

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State
this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 7, 20 11

by the following vote: 25 Ayes,

3 Nays, 2 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

7 day of April, 2011

at 4:45 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 13th day of

April

at 10:11 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 13th day of April, 2011

at 4:59 o'clock P. M.

[Signature]
Secretary of State

S.B. 1412