HB 2649

Introduced by
Representatives Burges, Seel, Smith D, Stevens; Barton, Crandell, Dial, Goodale, Gray R, Montenegro, Olson, Urie, Senators Gray, Griffin, Nelson

AN ACT

AMENDING SECTIONS 16-184, 16-548 AND 16-552, ARIZONA REVISED STATUTES; RELATING TO ELECTIONS AND ELECTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 16-184, Arizona Revised Statutes, is amended to read:

16-184. Additional violations; classification

A. Any person who knowingly swears falsely to an affidavit required under the provisions of this chapter is guilty of a class 5 felony unless another classification is specifically prescribed in this chapter.

B. An officer of an election who knowingly fails or refuses to perform any duty required of him under this chapter is guilty of a class 2 misdemeanor unless another classification is specifically prescribed in this chapter.

C. AN OFFICER OF AN ELECTION WHO KNOWINGLY FAILS TO REMOVE A PERSON FROM THE VOTER REGISTRATION ROLLS AFTER A DETERMINATION THAT THE PERSON IS UNLAWFULLY REGISTERED OR WHO FAILS TO REPORT THE UNLAWFUL REGISTRATION TO THE APPROPRIATE PROSECUTING AGENCY IS GUILTY OF A CLASS 2 MISDEMEANOR.

Sec. 2. Section 16-548, Arizona Revised Statutes, is amended to read:

16-548. Preparation and transmission of ballot

A. The early voter shall make and sign the affidavit and shall then mark his ballot in such a manner that his vote cannot be seen. The early voter shall fold the ballot, if a paper ballot, so as to conceal the vote and deposit the voted ballot in the envelope provided for that purpose. THE EARLY VOTER SHALL ALSO INCLUDE IN THE ENVELOPE A LEGIBLE PHOTOCOPY OF IDENTIFICATION THAT COMPLIES WITH SECTION 16-579. THE ENVELOPE shall be securely sealed and, together with the affidavit AND PHOTOCOPIES OF IDENTIFICATION, delivered or mailed to the county recorder or other officer in charge of elections of the political subdivision in which the elector is registered or deposited by the voter or the voter's agent at any polling place in the county. In order to be counted and valid, the ballot must be received by the county recorder or other officer in charge of elections or deposited at any polling place in the county no later than 7:00 p.m. on election day.

B. If the early voter is an overseas citizen, a qualified elector absent from the United States or in the United States service, a spouse or dependent residing with the early voter or a qualified elector of a special district mail ballot election as provided in article 8.1 of this chapter, the early voter may subscribe to the affidavit before and obtain the signature and military identification number or passport number, if available, of any person who is a United States citizen eighteen years of age or older.

Sec. 3. Section 16-552, Arizona Revised Statutes, is amended to read:

16-552. Early ballots; processing; challenges

A. In a jurisdiction that uses punch card ballots, the early election board, immediately upon receipt of the early ballots, shall cast separately for each precinct the early ballots which have been received. In a jurisdiction that uses optical scan ballots, the officer in charge of elections may use the procedure prescribed by this
section or may request approval from the secretary of state for a different method for processing early ballots. The request shall be made in writing at least ninety days before the election for which the procedure is intended to be used. After the election official has confirmed with the secretary of state that all election equipment passes the logic and accuracy test, the election official may begin to count early ballots. No early ballot results may be released except as prescribed by section 16-551.

B. The early election board shall check the voter's affidavit on the envelope containing the early ballot AND SHALL CHECK THE FORMS OF IDENTIFICATION SUBMITTED BY THE VOTER. IF THE PROOF OF IDENTIFICATION IS INCOMPLETE OR ILLEGIBLE AND THE EARLY ELECTION BOARD IS NOT ABLE TO PROCESS THE EARLY BALLOT, THE EARLY ELECTION BOARD SHALL NOTIFY THE EARLY VOTER WITHIN TEN BUSINESS DAYS OF RECEIPT OF THE EARLY BALLOT, SHALL SPECIFY THE MISSING OR ILLEGIBLE INFORMATION AND SHALL STATE THAT THE EARLY BALLOT CANNOT BE ALLOWED UNTIL THE INFORMATION IS SUPPLIED. IF THE MISSING OR ILLEGIBLE INFORMATION IS SUPPLIED BEFORE 7:00 P.M. ON ELECTION DAY, THAT PERSON IS DEEMED TO HAVE PROPERLY CAST AN EARLY BALLOT AND THE VOTE SHALL BE ALLOWED. If the affidavit AND IDENTIFICATION ARE found to be sufficient, the vote shall be allowed. If the affidavit OR IDENTIFICATION is insufficient, the vote shall not be allowed.

C. The county chairman of each political party represented on the ballot may, by written appointment addressed to the early election board, designate party representatives and alternates to act as early ballot challengers for the party. No party may have more than the number of such representatives or alternates which were mutually agreed upon by each political party to be present at one time. If such agreement cannot be reached, the number of representatives shall be limited to one for each political party.

D. An early ballot may be challenged on any grounds set forth in section 16-591. All challenges shall be made in writing with a brief statement of the grounds prior to the early ballot being placed in the ballot box. A record of all challenges and resulting proceedings shall be kept in substantially the same manner as provided in section 16-594. If an early ballot is challenged, it shall be set aside and retained in the possession of the early election board or other officer in charge of early ballot processing until a time that the early election board sets for determination of the challenge, subject to the procedure in subsection E of this section, at which time the early election board shall hear the grounds for the challenge and shall decide what disposition shall be made of the early ballot by majority vote. If the early ballot is not allowed, it shall be handled pursuant to subsection G of this section.

E. Within twenty-four hours of receipt of a challenge, the early election board or other officer in charge of early ballot processing shall mail, by first class mail, a notice of the challenge including a copy of the written challenge, and also including the time and place at which the voter
may appear to defend the challenge, to the voter at the mailing address shown on the request for an early ballot or, if none was provided, to the mailing address shown on the registration rolls. Notice shall also be mailed to the challenger at the address listed on the written challenge and provided to the county chairman of each political party represented on the ballot. The board shall meet to determine the challenge at the time specified by the notice but, in any event, not earlier than ninety-six hours after the notice is mailed, or forty-eight hours if the notifying party chooses to deliver the notice by overnight or hand delivery, and not later than 5:00 p.m. on the Monday following the election. The board shall provide the voter with an informal opportunity to make, or to submit, brief statements regarding the challenge. The board may decline to permit comments, either in person or in writing, by anyone other than the voter, the challenger and the party representatives. The burden of proof is on the challenger to show why the voter should not be permitted to vote. The fact that the voter fails to appear shall not be deemed to be an admission of the validity of the challenge. The early election board or other officer in charge of early ballot processing is not required to provide the notices described in this subsection if the written challenge fails to set forth at least one of the grounds listed in section 16-591 as a basis for the challenge. In that event, the challenge will be summarily rejected at the meeting of the board. Except for election contests pursuant to section 16-672, the board's decision is final and may not be appealed.

F. If the vote is allowed, the board shall open the envelope containing the ballot in such a manner that the affidavit thereon is not destroyed, take out the ballot without unfolding it or permitting it to be opened or examined and show by the records of the election that the elector has voted.

G. If the vote is not allowed, the affidavit envelope containing the early ballot shall not be opened and the board shall mark across the face of such envelope the grounds for rejection. The affidavit envelope and its contents shall then be deposited with the opened affidavit envelopes and shall be preserved with official returns. If the voter does not enter an appearance, the board shall send the voter a notice stating whether the early ballot was disallowed and, if disallowed, providing the grounds for the determination. The notice shall be mailed by first class mail to the voter's mailing address as shown on the registration rolls within three days after the board's determination.

H. Party representatives and alternates may be appointed as provided in subsection C of this section to be present and to challenge the verification of questioned ballots pursuant to section 16-584 on any grounds permitted by this section. Questioned ballots which are challenged shall be presented to the early election board for decision under the provisions of this section.