

REFERENCE TITLE: election equipment; certification; results

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1357

Introduced by
Senators Townsend: Borrelli, Livingston, Rogers; Representatives Burges,
Fillmore

AN ACT

AMENDING SECTION 16-442, ARIZONA REVISED STATUTES; RELATING TO THE CONDUCT
OF ELECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 16-442, Arizona Revised Statutes, is amended to
3 read:

4 16-442. Committee approval; adoption of vote tabulating
5 equipment; experimental use; emergency

6 A. The secretary of state shall appoint a committee of three
7 persons, to consist of a member of the engineering college at one of the
8 universities, a member of the state bar of Arizona and one person familiar
9 with voting processes in the state, ~~no~~ NOT more than two of whom shall be
10 of the same political party, and at least one of whom shall have at least
11 five years of experience with and shall be able to render an opinion based
12 on knowledge of, training in or education in electronic voting systems,
13 procedures and security. The committee shall investigate and test the
14 various types of vote recording or tabulating machines or devices that may
15 be used under this article. The committee shall submit its
16 recommendations to the secretary of state who shall make final adoption of
17 the type or types, make or makes, model or models to be certified for use
18 in this state. The committee shall serve without compensation.

19 B. Machines or devices used at any election for federal, state or
20 county offices may only be certified for use in this state and may only be
21 used in this state if they comply with the help America vote act of 2002
22 and if those machines or devices have been tested and approved by a
23 laboratory that is accredited pursuant to the help America vote act of
24 2002. ~~NOTWITHSTANDING ANY OTHER LAW, ANY MACHINE OR DEVICE THAT IS~~
25 ~~CERTIFIED BY A LABORATORY THAT WAS NOT ACCREDITED AT THE TIME OF THE~~
26 ~~CERTIFICATION IS DEEMED UNAPPROVED FOR USE IN THIS STATE AND NOT~~
27 ~~OFFICIALLY CERTIFIED. ANY ELECTION CONDUCTED WITH THAT MACHINE OR DEVICE~~
28 ~~WHILE IT IS NOT OFFICIALLY CERTIFIED IS NULLIFIED, AND THE VOTE TALLIES~~
29 ~~FROM THAT MACHINE SHALL BE REMOVED FROM THE OFFICIAL CANVASS OF THE~~
30 ~~ELECTION.~~

31 C. After consultation with the committee prescribed by subsection A
32 of this section, the secretary of state shall adopt standards that specify
33 the criteria for loss of certification for equipment that was used at any
34 election for federal, state or county offices and that was previously
35 certified for use in this state. On loss of certification, machines or
36 devices used at any election may not be used for any election for federal,
37 state or county offices in this state unless recertified for use in this
38 state.

39 D. The secretary of state ~~may~~ SHALL revoke the certification of any
40 voting system or device for use in a federal, state or county election in
41 this state or may prohibit for up to five years the purchase, lease or use
42 of any voting system or device leased, installed or used by a person or
43 firm in connection with a federal, state or county election in this state,
44 or both, if either of the following occurs:

1 1. The person or firm installs, uses or ~~permits~~ **ALLOWS** the use of a
2 voting system or device that is not certified for use or approved for
3 experimental use in this state pursuant to this section.
4 2. The person or firm uses or includes hardware, firmware or
5 software in a version that is not certified for use or approved for
6 experimental use pursuant to this section in a certified voting system or
7 device.
8 E. The governing body of a city or town or the board of directors
9 of an agricultural improvement district may adopt for use in elections any
10 kind of electronic voting system or vote tabulating device approved by the
11 secretary of state, and thereupon the voting or marking device and vote
12 tabulating equipment may be used at any or all elections for voting,
13 recording and counting votes cast at an election.
14 F. The secretary of state or the governing body may provide for the
15 experimental use of a voting system or device without a final adoption of
16 the voting system or device, and its use at the election is as valid as if
17 the machines had been permanently adopted.
18 G. After consultation with the committee prescribed by subsection A
19 of this section, the secretary of state may approve for emergency use an
20 upgrade or modification to a voting system or device that is certified for
21 use in this state if the governing body establishes in an open meeting
22 that the election cannot be conducted without the emergency certification.
23 Any emergency certification shall be limited to ~~no~~ **NOT** more than six
24 months. At the conclusion of the certification period the voting system
25 or device shall be decertified and unavailable for future use unless
26 certified in accordance with this section.