

UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT (UOCAVA)

(As modified by the *National Defense Authorization Act for FY 2005*)

TITLE I — REGISTRATION AND VOTING BY ABSENT UNIFORMED SERVICE VOTERS AND OVERSEAS VOTERS IN ELECTIONS FOR FEDERAL OFFICE

SEC. 101. FEDERAL RESPONSIBILITIES.

(a) **PRESIDENTIAL DESIGNEE.** — The President shall designate the head of an executive department to have primary responsibility for Federal functions under this title.

(b) **DUTIES OF PRESIDENTIAL DESIGNEE.** — The Presidential designee shall—

- (1) consult State and local election officials in carrying out this title, and ensure that such officials are aware of the requirements of this Act;
- (2) prescribe an official post card form, containing both an absentee voter registration application and an absentee ballot application, for use by the States as required under section 102(4);
- (3) carry out section 103 with respect to the Federal write-in absentee ballot for absent uniformed services voters and overseas voters in general elections for Federal office;
- (4) prescribe a suggested design for absentee ballot mailing envelopes for use by the States as recommended in section 104;
- (5) compile and distribute (A) descriptive material on State absentee registration and voting procedures, and (B) to the extent practicable, facts relating to specific elections, including dates, offices involved, and the text of ballot questions;
- (6) not later than the end of each year after a Presidential election year, transmit to the President and the Congress a report on the effectiveness of assistance under this title, including a separate statistical analysis of uniformed services voter participation, a separate statistical analysis of overseas nonmilitary participation, and a description of State-Federal cooperation; and
- (7) prescribe a standard oath for use with any document under this title affirming that a material misstatement of fact in the completion of such a document may constitute grounds for conviction of perjury.

(c) DUTIES OF OTHER FEDERAL OFFICIALS. —

- (1) **IN GENERAL.** — The head of each Government department, agency, or other entity shall, upon request of the Presidential designee, distribute balloting materials and otherwise cooperate in carrying out this title.
- (2) **ADMINISTRATOR OF GENERAL SERVICES.** — As directed by the Presidential designee, the Administrator of General Services shall furnish official post card forms (prescribed under subsection (b)) and Federal write-in absentee ballots (prescribed under section 103).

SEC. 102. STATE RESPONSIBILITIES.

(a) IN GENERAL.—Each State shall —

- (1) permit absent uniformed services voters and overseas voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal office;
- (2) accept and process, with respect to any election for Federal office, any otherwise valid voter registration application and absentee ballot application from an absent uniformed services voter or overseas voter, if the application is received by the appropriate State election official not less than 30 days before the election;
- (3) permit absent uniformed services voters and overseas voters to use Federal write-in absentee ballots (in accordance with section 103) in general elections for Federal office;
- (4) use the official post card form (prescribed under section 101) for simultaneous voter registration application and absentee ballot application; and
- (5) if the State requires an oath or affirmation to accompany any document under this title, use the standard oath prescribed by the Presidential designee under section 101(b)(7).

(b) DESIGNATION OF SINGLE STATE OFFICE TO PROVIDE INFORMATION ON REGISTRATION AND ABSENTEE BALLOT PROCEDURES FOR ALL VOTERS IN THE STATE.—

- (1) **IN GENERAL.**--Each State shall designate a single office which shall be responsible for providing information regarding voter registration procedures and absentee ballot procedures to be used by absent uniformed services voters and overseas voters with respect to elections for Federal office (including procedures relating to the use of the Federal write-in absentee ballot) to all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.

(2) **RECOMMENDATION** Regarding Use of Office to Accept and Process Materials.—Congress recommends that the State office designated under paragraph (1) be responsible for carrying out the State’s duties under this Act, including accepting valid voter registration applications, absentee ballot applications, and absentee ballots (including Federal write-in absentee ballots) from all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.

(c) **REPORT ON NUMBER OF ABSENTEE BALLOTS TRANSMITTED AND RECEIVED.** —Not later than 90 days after the date of each regularly scheduled general election for Federal office, each State and unit of local government which administered the election shall (through the State, in the case of a unit of local government) submit a report to the Election Assistance Commission (established under the Help America Vote Act of 2002) on the combined number of absentee ballots transmitted to absent uniformed services voters and overseas voters for the election and the combined number of such ballots which were returned by such voters and cast in the election, and shall make such report available to the general public.

(d) **REGISTRATION NOTIFICATION.**—With respect to each absent uniformed services voter and each overseas voter who submits a voter registration application or an absentee ballot request, if the State rejects the application or request, the State shall provide the voter with the reasons for the rejection.

SEC. 103. FEDERAL WRITE-IN ABSENTEE BALLOT IN GENERAL ELECTIONS FOR FEDERAL OFFICE FOR ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS.

(a) **IN GENERAL.** — The Presidential designee shall prescribe a Federal write-in absentee ballot (including a secrecy envelope and mailing envelope for such ballot) for use in general elections for Federal office by absent uniformed services voters and overseas voters who make timely application for, and do not receive, States, absentee ballots.

(b) **SUBMISSION AND PROCESSING.** — Except as otherwise provided in this title, a Federal write-in absentee ballot shall be submitted and processed in the manner provided by law for absentee ballots in the State involved. A Federal write-in absentee ballot of an absent uniformed services voter or overseas voter shall not be counted. —

- (1) in the case of a ballot submitted by an overseas voter who is not an absent uniformed services voter, if the ballot is submitted from any location in the United States;
- (2) if the application of the absent uniformed services voters or overseas voter for a State absentee ballot is received by the appropriate State election official after the latter of—

- (A) the deadline of the State for receipt of such application; or
- (B) the date that is 30 days before the general election; or
- (3) if a State absentee ballot of an absent uniformed services voters or overseas voter is received by the appropriate State election official not later than the deadline for receipt of the State absentee ballot under State law.

(c) **SPECIAL RULES.** — The following rules shall apply with respect to Federal write-in absentee ballots:

- (1) In completing the ballot, the absent uniformed services voters or overseas voter may designate a candidate by writing in the name of the candidate or by writing in the name of political party (in which case the ballot shall be counted for the candidate of that political party).
- (2) In the case of the offices of President and Vice President, a vote for a named candidate or a vote by writing in the name of a political party shall be counted as a vote for the electors supporting the candidate involved.
- (3) Any abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party shall be disregarded in determining the validity of the ballot, if the intention of the voter can be ascertained.

(d) **SECOND BALLOT SUBMISSION; INSTRUCTION TO ABSENT UNIFORMED SERVICES VOTERS OR OVERSEAS VOTER.** —

An absent uniformed services voters or overseas voter who submits a Federal write-in absentee ballot and later receives a State absentee ballot, may submit the State absentee ballot. The Presidential designee shall assure that the instructions for each Federal write-in absentee ballot clearly state that an absent uniformed services voters or overseas voter who submits a Federal write-in absentee ballot and later receives and submits a State absentee ballot should make every reasonable effort to inform the appropriate State election official that the voter has submitted more than one ballot.

(e) **USE OF APPROVED STATE ABSENTEE BALLOT IN PLACE OF FEDERAL WRITE-IN ABSENTEE BALLOT.**

The Federal write-in absentee ballot shall not be valid for use in a general election if the State involved provides a State absentee ballot that —

- (1) at the request of the State, is approved by the Presidential designee for use in place of the Federal write-in absentee ballot; and
- (2) is made available to absent uniformed services voters and overseas voters at least 60 days before the deadline for receipt of the State ballot under State law.

(f) **CERTAIN STATES EXEMPTED.** — A State is not required to permit use of the Federal write-in absentee ballot, if, on and after the date of the enactment of the title, the State has in effect a law providing that —

- (1) a State absentee ballot is required to be available to any voter described in section 107(5)(A) at least 90 days before the general election involved; and
- (2) a State absentee ballot is required to be available to any voter described in section 107(5)(B) or (C), as soon as the official list of candidates in the general election is complete.

SEC. 104. USE OF SINGLE APPLICATION FOR ALL SUBSEQUENT ELECTIONS.

(a) **IN GENERAL.**—If a State accepts and processes an official post card form (prescribed under section 101) submitted by an absent uniformed services voter or overseas voter for simultaneous voter registration and absentee ballot application (in accordance with section 102(a)(4)) and the voter requests that the application be considered an application for an absentee ballot for each subsequent election for Federal office held in the State through the next 2 regularly scheduled general elections for Federal office (including any runoff elections which may occur as a result of the outcome of such general elections), the State shall provide an absentee ballot to the voter for each such subsequent election.

(b) **EXCEPTION FOR VOTERS CHANGING REGISTRATION.**—Subsection (a) shall not apply with respect to a voter registered to vote in a State for any election held after the voter notifies the State that the voter no longer wishes to be registered to vote in the State or after the State determines that the voter has registered to vote in another State.

(c) **REVISION OF OFFICIAL POST CARD FORM.**—The Presidential designee shall revise the official post card form (prescribed under section 101) to enable a voter using the form to—

- (1) request an absentee ballot for each election for Federal office held in a State during a year; or
- (2) request an absentee ballot for only the next scheduled election for Federal office held in a State.

(d) **NO EFFECT ON VOTER REMOVAL PROGRAMS.**—Nothing in this section may be construed to prevent a State from removing any voter from the rolls of registered voters in the State under any program or method permitted under section 8 of the National Voter Registration Act of 1993.

(e) PROHIBITION OF REFUSAL OF APPLICATION ON GROUNDS OF EARLY SUBMISSION.—A State may not refuse to accept or process, with respect to any election for Federal office, any otherwise valid voter registration application or absentee ballot application (including the postcard form prescribed under section 101) submitted by an absent uniformed services voter during a year on the grounds that the voter submitted the application before the first date on which the State otherwise accepts or processes such applications for that year submitted by absentee voters who are not members of the uniformed services.

SEC. 105. ENFORCEMENT.

The Attorney General may bring a civil action in an appropriate district court for such declaratory or injunctive relief as may be necessary to carry out this title.

SEC. 106. EFFECT ON CERTAIN OTHER LAWS.

The exercise of any right under this title shall not affect, for purposes of any Federal, State, or local tax, the residence or domicile of a person exercising such right.

SEC. 107. DEFINITIONS.

(1) "absent uniformed services voter" means —

(A) a member of a uniformed service on active duty who, by reason of such active duty, is absent from the place of residence where the member is otherwise qualified to vote;

(B) a member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote; and

(C) a spouse or dependent of a member referred to in subparagraph (A) or (B) who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote;

(2) "balloting materials" means official post card forms (prescribed under section 101), Federal write-in absentee ballots (prescribed under section 103), and any State balloting materials that, as determined by the Presidential designee, are essential to the carrying out of this title;

(3) "Federal office" means the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress

(4) "member of the merchant marine" means an individual (other than a member of a uniformed service or an individual employed, enrolled, or maintained on the Great Lakes or the inland waterways) —

(A) employed as an officer or crew member of a vessel documented under the laws of the United States, or a vessel owned by the United States, or a vessel of foreign-flag registry under charter to or control of the United States; or

(B) enrolled with the United States for employment or training for employment, or maintained by the United States for emergency relief service, as an officer or crew member of any such vessel;

(5) "overseas voter" means —

(A) an absent uniformed services voter who, by reason of active duty or service is absent from the United States on the date of the election involved;

(B) a person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States; or

(C) a person who resides outside the United States and (but for such residence) would be qualified to vote in the last place in which the person was domiciled before leaving the United States;

(6) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa;

(7) "uniformed services" means the Army, Navy, Air Force, Marine Corps, and Coast Guard, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration; and

(8) "United States", where used in the territorial sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

TITLE II — POSTAL, CRIMINAL, AND GENERAL PROVISIONS

SEC. 201. AMENDMENTS TO TITLE 39, UNITED STATES CODE.

(a) **IN GENERAL.** — Chapter 34 of title 39, United States Code, is amended by adding at the end of the following new section:

"§ 3406. Balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act

"(a) Balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act (individually or in bulk) —

"(1) shall be carried expeditiously and free of postage; and

"(2) may be mailed at a post office established outside the United States under section 406 of this title, unless such mailing is prohibited by treaty or other international agreement of the United States.

"(b) As used in this section, the term 'balloting materials' has the meaning given that term in section 107 of the Uniformed and Overseas Citizens Absentee Voting Act."

(b) TECHNICAL AMENDMENTS. —

(1) The table of sections for chapter 34 of title 39, United States Code, is amended by adding at the end the following new item:

"3406. Balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act."

(2) The first sentence of section 2401(c) of title 39, United States Code, is amended —

(A) by striking out "3405" and inserting in lieu thereof "3406"; and

(B) by striking out "the Overseas Citizens Voting Rights Act of 1975, and the Federal Voting Assistance Act of 1955".

(3) Section 3627 of title 39, United States Code, is amended —

(A) by striking out "3405" and inserting in lieu thereof "3406"; and

(B) by striking out "under the Federal Voting Assistance Act of 1955 or under the Overseas Citizens Voting Rights Act of 1975".

(4) Section 3684 of title 39, United States Code, is amended by striking out, "or of the Federal Voting Assistance Act of 1955".

SEC. 202. AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) **IN GENERAL.** — Chapter 29 of title 18, United States Code, is amended by adding at the end the following new sections:

"§ 608. Absent uniformed services voters and overseas voters

"(a) Whoever knowingly deprives or attempts to deprive any person of a right under the Uniformed and Overseas Citizens Absentee Voting Act shall be fined in accordance with this title or imprisoned not more than five years, or both.

"(b) Whoever knowingly gives false information for the purpose of establishing the eligibility of any person to register or vote under the Uniformed and Overseas Citizens Absentee Voting Act, or pays or offers to pay, or accepts payment for registering voting under such Act shall be fined in accordance with this title or imprisoned not more than five years, or both.

"§ 609. Use of military authority to influence vote of member of Armed Forces

"Whoever, being a commissioned, noncommissioned, warrant, or petty officer of an Armed Force, uses military authority to influence the vote of a member of the Armed Forces or to require a member of the Armed Forces to march to a polling place, or attempts to do so, shall be fined in accordance with this title or imprisoned not more than five years, or both. Nothing in this section shall prohibit free discussion of political issues or candidates for public office."

(b) **TECHNICAL AMENDMENT.** — The table of sections for chapter 29 of title 18, United States Code, is amended by adding at the end the following:

"608. Absent uniformed services voters and overseas voters.

"609. Use of military authority to influence vote of member of Armed Forces."

SEC. 203. REPEALS.

The Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc et seq.) and the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd et seq.) are repealed.

SEC. 204. EFFECTIVE DATE.

The amendments and repeals made by this Act shall apply with respect to elections for Federal office that occur after January 1, 2004.