

REFERENCE TITLE: ballot delivery; collection

State of Arizona
Senate
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SB 1247

Introduced by
Senators Sundareshan: Alston, Bravo, Burch, Diaz, Epstein, Fernandez,
Gabaldón, Gonzales, Hatathlie, Hernandez, Mendez, Miranda

AN ACT

AMENDING SECTIONS 16-513, 16-547 AND 16-1005, ARIZONA REVISED STATUTES;
RELATING TO BALLOT COLLECTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 16-513, Arizona Revised Statutes, is amended to
3 read:

4 16-513. Instructions for voters and election officers;
5 overvote notice

6 A. The board of supervisors shall prepare instructions for the
7 guidance of voters and election officers at the election, according to
8 which the election shall be conducted and which shall govern the voters
9 and election officers as provided in the secretary of state's instructions
10 and procedures manual. The board of supervisors shall furnish to the
11 inspector in each election precinct at least two instruction cards, at the
12 time and in the same manner as the printed ballots are furnished.

13 B. If the voting equipment used for the election provides for the
14 rejection of overvoted ballots or ballots that contain other
15 irregularities, the board of supervisors shall provide for a written
16 notice advising the voter that if the voter chooses to override the
17 overvoted office or measure or override any other ballot irregularity, the
18 voter's vote for that office or measure will not be tallied. The notice
19 shall be posted on or near the voting equipment so that the voter has a
20 clear view of the notice.

21 ~~C. The instructions prescribed by subsection A of this section~~
22 ~~shall also include the following information regarding section 16-1005,~~
23 ~~subsections H and I in substantially the following form:~~

24 ~~A person may only handle or return their own ballot or~~
25 ~~the ballot of family members, household members or persons for~~
26 ~~whom they are a caregiver. It is unlawful under section~~
27 ~~16-1005 to handle or return the ballot of any other person.~~

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

30 16-547. Ballot affidavit; form

31 A. The early ballot shall be accompanied by an envelope bearing on
32 the front the name, official title and post office address of the recorder
33 or other officer in charge of elections and on the other side a printed
34 affidavit in substantially the following form:

35 I declare the following under penalty of perjury: I am
36 a registered voter in _____ county Arizona, I have not
37 voted and will not vote in this election in any other county
38 or state, I understand that knowingly voting more than once in
39 any election is a class 5 felony and I voted the enclosed
40 ballot and signed this affidavit personally unless noted
41 below.

42 If the voter was assisted by another person in marking
43 the ballot, complete the following:

1 I declare the following under penalty of perjury: At
2 the registered voter's request I assisted the voter identified
3 in this affidavit with marking the voter's ballot, I marked
4 the ballot as directly instructed by the voter, I provided the
5 assistance because the voter was physically unable to mark the
6 ballot solely due to illness, injury or physical limitation
7 and I understand that there is no power of attorney for voting
8 and that the voter must be able to make the voter's selection
9 even if the voter cannot physically mark the ballot.

10 Name of voter assistant: _____

11 Address of voter assistant: _____

12 B. The face of each envelope in which a ballot is sent to a federal
13 postcard applicant or in which a ballot is returned by the applicant to
14 the recorder or other officer in charge of elections shall be in the form
15 prescribed in accordance with the uniformed and overseas citizens absentee
16 voting act (P.L. 99-410; 52 United States Code section 20301). Otherwise,
17 the envelopes shall be the same as those used to send ballots to, or
18 receive ballots from, other early voters.

19 C. The officer charged by law with the duty of preparing ballots at
20 any election shall ensure that the early ballot is sent in an envelope
21 that states substantially the following:

22 If the addressee does not reside at this address, mark the unopened
23 envelope "return to sender" and deposit it in the United States mail.

24 D. The county recorder or other officer in charge of elections
25 shall supply printed instructions to early voters that direct them to sign
26 the affidavit, mark the ballot and return both in the enclosed
27 self-addressed envelope that complies with section 16-545. The
28 instructions shall include the following statement:

29 In order to be valid and counted, the ballot and
30 affidavit must be delivered to the office of the county
31 recorder or other officer in charge of elections or may be
32 deposited at any polling place in the county not later than
33 7:00 p.m. on election day. The ballot will not be counted
34 without the voter's signature on the envelope.

35 (WARNING – It is a felony to offer or receive any compensation
36 for a ballot.)

37 ~~E. The printed instructions prescribed by subsection D of this~~
38 ~~section shall also include the following information regarding section~~
39 ~~16-1005, subsections H and I in substantially the following form:~~

40 ~~A person may only handle or return their own ballot or~~
41 ~~the ballot of family members, household members or persons for~~
42 ~~whom they are a caregiver. It is unlawful under section~~
43 ~~16-1005 to handle or return the ballot of any other person.~~

1 Sec. 3. Section 16-1005, Arizona Revised Statutes, is amended to
2 read:

3 16-1005. Ballot abuse; violation; classification; definitions

4 A. ~~Any~~ A person who knowingly marks a voted or unvoted ballot or
5 ballot envelope with the intent to fix an election for that person's own
6 benefit or for that of another person is guilty of a class 5 felony.

7 B. It is unlawful to offer or provide any consideration to acquire
8 a voted or unvoted early ballot. A person who violates this subsection is
9 guilty of a class 5 felony.

10 C. It is unlawful to receive or agree to receive any consideration
11 in exchange for a voted or unvoted ballot. A person who violates this
12 subsection is guilty of a class 5 felony.

13 D. It is unlawful to possess a voted or unvoted ballot with the
14 intent to sell the voted or unvoted ballot of another person. A person
15 who violates this subsection is guilty of a class 5 felony.

16 E. A person or entity that knowingly solicits the collection of
17 voted or unvoted ballots by misrepresenting itself as an election official
18 or as an official ballot repository or is found to be serving as a ballot
19 drop off site, other than those established and staffed by election
20 officials, is guilty of a class 5 felony.

21 F. A person who knowingly collects voted or unvoted ballots and who
22 does not turn those ballots in to an election official, the United States
23 postal service or any other entity ~~permitted~~ ALLOWED by law to transmit
24 post is guilty of a class 5 felony.

25 G. A person who engages or participates in a pattern of ballot
26 fraud is guilty of a class 4 felony. For the purposes of this subsection,
27 "pattern of ballot fraud" means the person has offered or provided any
28 consideration to three or more persons to acquire the voted or unvoted
29 ballot of a person.

30 H. A person who knowingly collects ~~voted or~~ unvoted early ballots
31 from another person is guilty of a class 6 felony. An election official,
32 a United States postal service worker or any other person who is allowed
33 by law to transmit United States mail is deemed not to have collected an
34 early ballot if the official, worker or other person is engaged in
35 official duties. A VOTER MAY GIVE THE VOTER'S VOTED EARLY BALLOT TO
36 ANOTHER PERSON TO DELIVER TO A POLLING PLACE, A BALLOT DROP BOX, AN
37 ELECTION OFFICIAL, THE UNITED STATES POSTAL SERVICE OR ANY OTHER ENTITY
38 ALLOWED BY LAW TO TRANSMIT POST.

39 I. THE PROHIBITION ON COLLECTING UNVOTED EARLY BALLOTS IN
40 subsection H of this section does not apply to:

41 1. An election held by a special taxing district THAT IS formed
42 pursuant to title 48 for the purpose of protecting or providing services
43 to agricultural lands or crops and that is authorized to conduct elections
44 pursuant to title 48.

45 2. A family member, household member or caregiver of the voter.

1 J. For the purposes of this ~~paragraph~~ SECTION:

2 ~~(a)~~ 1. "Caregiver" means a person who provides medical or health
3 care assistance to the voter in a residence, nursing care institution,
4 hospice facility, assisted living center, assisted living facility,
5 assisted living home, residential care institution, adult day health care
6 facility or adult foster care home.

7 ~~(b)~~ 2. "Collects" means to gain possession or control of an early
8 ballot.

9 ~~(c)~~ 3. "Family member" means a person who is related to the voter
10 by blood, marriage, adoption or legal guardianship.

11 ~~(d)~~ 4. "Household member" means a person who resides at the same
12 residence as the voter.