

**HOUSE BILL NO. 49**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**EIGHTEENTH LEGISLATURE - FIRST SESSION**

**BY REPRESENTATIVE MARTIN**

**Introduced: 1/13/93**

**Referred: State Affairs, Judiciary, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to facsimile absentee ballot application and facsimile absentee  
2 voting."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* **Section 1. LEGISLATIVE FINDINGS AND PURPOSE.** (a) The legislature finds that

5 (1) the increased use of facsimile transmissions has encouraged the possibility  
6 of absentee voter registration and the sending and receiving of absentee ballots by facsimile  
7 transmission; and

8 (2) while federal law encourages but does not require the use of facsimile  
9 transmissions in federal elections, facsimile technology is sufficiently reliable and there is  
10 evidence that absentee facsimile voting would be helpful to facilitate the absentee voting  
11 process.

12 (b) It is the purpose of this Act to allow

13 (1) for absentee voting by facsimile transmission in state elections covered by  
14 AS 15 (Alaska Election Code), while recognizing that state election officials have the

1 responsibility to maintain the accuracy, integrity, and secrecy of the election process;  
2 (2) facsimile voting consistent with reasonable assurance that voting security  
3 is maintained for the ultimate purpose of preventing election fraud and protecting the validity  
4 of the electoral process.

5 \* Sec. 2. AS 15.20 is amended by adding a new section to read:

6 Sec. 15.20.066. FACSIMILE VOTING. The director shall adopt regulations  
7 applicable to the use of facsimile transmission absentee voting. Except as specifically  
8 provided in this chapter for facsimile transmission absentee voting, the regulations  
9 must require the voter to comply with the same time deadlines as for voting in person  
10 on or before the closing hour of the polls. The regulations must ensure the accuracy,  
11 integrity, and secrecy of the ballot process.

12 \* Sec. 3. AS 15.20.081(a) is amended to read:

13 (a) A qualified voter may apply by mail or by facsimile transmission to the  
14 director for an absentee ballot. The application must [SHALL] include the address or  
15 telephone facsimile transmission number to which the absentee ballot is to be  
16 returned, the applicant's full Alaska residence address, and the applicant's signature.  
17 Persons residing outside the United States and applying to vote absentee in federal  
18 elections in accordance with AS 15.05.011 need not include an Alaska residence  
19 address in the application.

20 \* Sec. 4. AS 15.20.081(b) is amended to read:

21 (b) An application requesting delivery of [FOR] an absentee ballot to the  
22 applicant by mail must be received by the division of elections not less than four days  
23 before the election for which the absentee ballot is sought. An application requesting  
24 delivery of an absentee ballot to the applicant by facsimile transmission must be  
25 received by the division of elections not less than two days before the election for  
26 which the absentee ballot is sought. The absentee ballot application by mail must  
27 permit the person to register to vote under AS 15.07.070 and to request an absentee  
28 ballot for each state election held within that calendar year for which the voter is  
29 eligible to vote.

30 \* Sec. 5. AS 15.20.081(c) is amended to read:

31 (c) After receipt of an application under this section [BY MAIL], the director

1 shall send the absentee ballot and other absentee voting material to the applicant by  
2 the most expeditious mail service or by facsimile transmission. The materials  
3 [MATERIAL] shall be sent as soon as they are ready for distribution. The return  
4 envelope sent with the materials shall be addressed to the election supervisor in the  
5 district in which the voter is a resident.

6 \* Sec. 6. AS 15.20.081(d) is amended to read:

7 (d) Upon receipt of an absentee ballot under this section, if the voter votes  
8 by mail, the voter, in the presence of a notary public, commissioned officer of the  
9 armed forces including the National Guard, district judge or magistrate, United States  
10 postal official, registration official, or other person qualified to administer oaths, may  
11 proceed to mark the ballot in secret, to place the ballot in the small envelope, to place  
12 the small envelope in the larger envelope, and to sign the voter's certificate on the  
13 back of the larger envelope in the presence of an official listed in this subsection who  
14 shall sign as attesting official and shall date the signature. Upon receipt of an  
15 absentee ballot under this section, if the voter votes by facsimile transmission, the  
16 voter, in the presence of a notary public, commissioned officer of the armed forces  
17 including the National Guard, district judge or magistrate, United States postal  
18 official, registration official, or other person qualified to administer oaths, may  
19 proceed to mark the ballot in secret, to follow the procedures for the handling of  
20 the facsimile transmitted ballot set out in the regulations adopted under  
21 AS 15.20.066, and to sign the voter's certificate in the presence of an official listed  
22 in this subsection who shall sign as attesting official, and shall date the signature.

23 If none of the officials listed in this subsection is reasonably accessible, an absentee  
24 voter shall sign the voter's certificate in the presence of two persons over the age of  
25 18 years, who shall sign as witnesses and attest to the date on which the voter signed  
26 the certificate in their presence, and, in addition, the voter shall provide the  
27 certification prescribed in AS 09.63.020.

28 \* Sec. 7. AS 15.20.081(e) is amended to read:

29 (e) An absentee ballot must be marked on or before the date of the election.

30 Except as provided in (h) of this section,

31 (1) a voter who returns the ballot by mail shall use a mail service at

1 least equal to first class and mail the ballot not later than the day of the election to the  
2 election supervisor for the election district in which the voter seeks to vote; except [.   
3 EXCEPT] as provided in AS 15.20.480, the ballot may not be counted unless it is  
4 received by the close of business on the 10th day after the election; if [. IF] the ballot  
5 is postmarked, it must be postmarked on or before election day; after [. AFTER] the  
6 day of the election, [NO] ballots may not [SHALL] be accepted unless received by  
7 mail;

8 (2) a voter who returns the ballot by facsimile transmission when  
9 authorized to do so by the regulations adopted under AS 15.20.066 shall transmit  
10 the ballot no later than when the polls close in the evening of the day of the  
11 election to the election supervisor for the election district in which the voter seeks  
12 to vote.

13 \* Sec. 8. AS 15.20.081(f) is amended to read:

14 (f) The director may require a voter casting an absentee ballot under this  
15 section [BY MAIL] to provide proof of identification or other information to aid in  
16 the establishment of the voter's identity as prescribed by regulations adopted under the  
17 Administrative Procedure Act (AS 44.62).

18 \* Sec. 9. AS 15.20.081(g) is amended to read:

19 (g) The director shall maintain a record of the name of each voter to whom  
20 an absentee ballot is sent under this section [BY MAIL]. The record must list the  
21 date on which the ballot is mailed or transmitted by facsimile transmission and the  
22 date on which the ballot is received by the election supervisor and the dates on which  
23 the ballot was executed and, if applicable, postmarked.

24 \* Sec. 10. AS 15.20.082 is amended by adding a new subsection to read:

25 (e) The provisions of AS 15.20.066 and 15.20.081 relating to facsimile  
26 transmission absentee voting do not apply to the procedures established in this section.

27 \* Sec. 11. AS 15.20.203(b) is amended to read:

28 (b) An absentee ballot may not be counted if

29 (1) the voter has failed to properly execute the certificate;

30 (2) an official or the witnesses authorized by law to attest the voter's  
31 certificate fail to execute the certificate;

- 1 (3) the ballot is not attested on or before the date of the election;  
2 (4) the ballot, if postmarked, is not postmarked on or before the date  
3 of the election; [OR]  
4 (5) after the day of election, the ballot was delivered by a means other  
5 than mail; or  
6 (6) the ballot, if transmitted by facsimile transmission, is received  
7 after the polls close in the evening of the day of the election.

8 \* Sec. 12. AS 15.20.211(b) is amended to read:

9 (b) If a voter requested an absentee ballot [BY MAIL] and the proper absentee  
10 ballot was not sent to the voter, the votes cast by the voter on the ballot received  
11 which are for write-in candidates the voter could have voted for if the voter had  
12 received and voted the proper absentee ballot shall be counted.