

CHAPTER 1291**ELECTION LAWS***H.F. 2468*

AN ACT relating to the election laws by providing a method for challenging nomination petitions, eliminating the requirement for notarization of absentee ballots, allowing the mailing of certain absentee ballots, regulating the office hours of the county commissioner of elections, revising delivery of registration forms and changes in registration, requiring identification of political advertisers, providing for assistance to certain voters and making certain technical corrections to the voting laws and providing penalties and effective dates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **NEW SECTION. 43.24 OBJECTIONS TO NOMINATION PETITIONS OR CERTIFICATES OF NOMINATION.**

1. **WRITTEN OBJECTIONS REQUIRED.** Nomination petitions or certificates of nomination filed under this chapter which are apparently in conformity with the law are valid unless objection is made in writing.

Objections to the legal sufficiency of a nomination petition or certificate of nomination filed or issued under this chapter or to the eligibility of a candidate may be filed in writing by any person who would have the right to vote for the candidate for the office in question.

Objections shall be filed with the officer with whom the nomination petition or certificate of nomination was filed, and within the following time:

a. Those filed with the state commissioner, not less than sixty days before the date of the election.

b. Those filed with the commissioner, not less than fifty days before the date of the election.

c. Objections to nominations to fill vacancies at a special election held under section 69.14, under which the forty-day notice of election provisions applies, shall be filed with the state commissioner not less than fifteen days prior to the date set for the special election. If the forty-day notice provision does not apply, objections to nominations to fill vacancies at a special election held under section 69.14 may be filed any time prior to the date set for the special election.

d. Those filed with the city clerk under chapter 43, at least thirty days prior to the municipal election.

2. **NOTICE OF OBJECTIONS.**

a. When objections have been filed, notice shall be mailed within seventy-two hours by certified mail to the candidate affected, addressed to the candidate's place of residence as stated in the candidate's affidavit of candidacy or in the certificate of nomination, stating that objections have been made, the nature of the objections, and the time and place the objections will be considered.

b. If an objection is filed to a nomination to fill a vacancy at a special election held under section 69.14, under which the forty-day notice of election provision of section 69.14 does not apply, notice of the objection shall be made to the candidate by the state commissioner as soon as practicable. Under this paragraph, failure to notify a candidate of an objection to the

candidate's nomination prior to the date set for the special election does not invalidate the hearing conducted under subsection 3. The hearing to an objection shall proceed as quickly as possible to expedite the special election.

3. HEARING. Objections filed with the state commissioner shall be considered by the secretary of state, auditor of state, and attorney general. However, if the objection is to the nomination petition, certificate of nomination, or eligibility of one or more of those officers, those officers shall be replaced, respectively, by the treasurer of state, secretary of agriculture, and lieutenant governor for the hearing.

Objections filed with the commissioner shall be considered by the county auditor, county treasurer, and county attorney. However, if the objection is to the nomination petition, certificate of nomination, or eligibility of one or more of those officers, their places shall be filled, respectively, by the county sheriff, county recorder, and chairperson of the board of supervisors. In either case, a majority vote shall decide the issue.

Objections filed with the city clerk shall be considered by the mayor and clerk and one member of the council chosen by the council by ballot, and a majority decision shall be final; but if the objection is to the certificate of nomination of either of those city officials, that official shall not pass upon said objection, but that official's place shall be filled by a member of the council against whom no objection exists, chosen as above.

Sec. 2. Section 43.115, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Objections to nomination petitions and certificates of nominations shall be filed and decided as provided in section 43.24.

Sec. 3. Section 47.2, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. The office of county auditor or county commissioner of elections in each county shall be open for at least eight hours on the Saturday preceding a general election, primary election, or special election called by the governor for the purpose of receiving absentee ballots and conducting other official business relating to the election.

Sec. 4. Section 48.3, Code 1983, is amended to read as follows:

48.3 REGISTRATION BY MAIL FORM. As an alternative to the method of registration prescribed by section 48.2, ~~any a~~ person entitled to register under that section may ~~submit~~ cause delivery of a completed voter registration form to the commissioner of registration in the person's county of residence ~~by postage paid United States mail~~. A registration form or the envelope containing one or more registration forms for the use of individual registrants ~~who are related to each other within the first degree of consanguinity or affinity and who reside at the same address shall~~ must be postmarked or otherwise delivered by the twenty-fifth day prior to an election or the registration will not take effect for that election. A separate registration form shall be signed by each individual registrant. Within five working days after receiving a registration by mail, the commissioner shall send the registrant a receipt of the registration by first class mail marked "do not forward". If the receipt is returned by the postal service the commissioner shall treat the registration as prescribed by section 48.31, subsection 7. An improperly addressed or delivered registration form shall be forwarded to the appropriate county commissioner of registration within two working days after it is received by any other official.

Sec. 5. Section 48.6, subsection 9, Code Supplement 1983, is amended to read as follows:

9. A statement certification in substantially the following form:

"I state certify that I am a citizen of the United States, that I am or will be an eligible elector at any election at which I attempt to vote and that all of the information I have given upon this voter registration form is true. I hereby authorize cancellation of any prior registration to vote in this or any other jurisdiction and my eligibility to vote in any jurisdiction where voter registration is not required. I am aware that fraudulently registering, or attempting to do so, is a felony an aggravated misdemeanor under Iowa law." At the time the registration is signed by the eligible elector it shall also be signed by a mobile registrar, employee of the commissioner's office, or other eligible elector.

Sec. 6. Section 48.7, subsection 1, paragraph a, Code Supplement 1983, is amended to read as follows:

a. The qualified elector may submit to the commissioner a form of the type provided for electors registering under section 48.3 providing for the elector's current name, telephone number, social security number and address and a written notice of the change of name, telephone number, or address, bearing the elector's signature. Upon receipt of the form notice, the commissioner shall change the registration records accordingly and the change shall be reflected in the election registers prepared for the next election held ten or more days after receipt of the qualified elector's notice. If the form notice received by the commissioner does not contain the information regarding name and address necessary to properly update the registration records, the commissioner shall immediately send notice to the elector, by forwardable mail directed to the elector's last known address, that the elector's registration is defective. The commissioner's notice shall advise the elector of the corrections necessary.

Sec. 7. Chapter 49, Code 1983, is amended by adding the following new section:

NEW SECTION. POLITICAL ADVERTISEMENTS. A person who causes the publication or distribution of published material after July 1, 1984 designed to promote or defeat the nomination or election of a candidate for public office or the passage of a constitutional amendment or public measure shall include conspicuously on the published material the identity and address of the person responsible for the material. If the person responsible is an organization, the name of one officer of the organization shall appear on the material. This section does not apply to the editorial or news articles of a newspaper or magazine which are not political advertisements.

Sec. 8. Section 49.89, Code 1983, is amended to read as follows:

49.89 SELECTION OF OFFICIALS TO ASSIST VOTERS. At, or before, the opening of the polls, the election board of each precinct shall select two members of the board, of different political parties in the case of any election in which candidates appear on the ballot under the heading of either of the political parties referred to in section 49.13, to assist voters who may be unable to cast their votes without assistance as described in section 49.90. Voters who are blind or physically disabled may have the assistance of any person they may select.

Sec. 9. Section 49.90, Code 1983, is amended to read as follows:

49.90 ASSISTING VOTER. Any voter who may declare upon oath that he or she the voter is blind, cannot read the English language, or is, by reason of any physical disability other than intoxication, unable to cast a vote without assistance, shall, upon request, be assisted by said two officers, or alternatively by any other person the voter may select if the voter is blind or physically disabled in casting the vote. Said officers, or person selected by the blind or physically disabled voter, shall cast the vote of the voter requiring assistance, and shall thereafter give no information regarding the same vote cast. If any elector because of a handicap cannot enter the building where the polling place for the elector's precinct of residence is located, the two officers shall take a paper ballot to the vehicle occupied by the handicapped elector and allow the elector to cast the ballot in the vehicle. If a handicapped

elector cannot cast a ballot on a voting machine the elector shall be allowed to cast a paper ballot, which shall be opened immediately after the closing of the polling place by the two precinct election officials designated under section 49.89, who shall register the votes cast thereon on a voting machine in the polling place before the votes cast there are tallied pursuant to section 52.21. To preserve so far as possible the confidentiality of each handicapped elector's ballot, the two officers shall proceed substantially in the same manner as provided in section 53.24. In precincts where all voters use paper ballots, those cast by handicapped voters shall be deposited in the regular ballot box and counted in the usual manner.

Sec. 10. Section 50.24, Code 1983, is amended to read as follows:

50.24 CANVASS BY BOARD OF SUPERVISORS. The county board of supervisors shall meet to canvass the vote at nine o'clock on the morning of the first Monday after the day of each election to which this chapter is applicable, unless the law authorizing the election specifies another date for the canvass. If that Monday is a public holiday, the provisions of section 4.1, subsection 22 shall control controls. Upon convening, the board shall open and canvass the tally lists and shall prepare abstracts stating, in words written at length, the number of votes cast in the county, or in that portion of the county in which the election was held, for each office ~~or~~ and on each question on the ballot for the election. The board shall also open and include in the canvass any absentee ballots which were received after the polls closed in accordance with section 53.17. The abstract shall further indicate the name of each person who received votes for each office on the ballot, and the number of votes each person named received for that office, and the number of votes for and against each question submitted to the voters at the election.

Sec. 11. Section 53.2, unnumbered paragraph 2, Code Supplement 1983, is amended to read as follows:

~~Nothing in this~~ This section shall be construed to does not require that a written communication mailed to the commissioner's office to request an absentee ballot, or any other document ~~except the absent voter's affidavit required by section 53.13,~~ be notarized as a prerequisite to receiving or marking an absentee ballot or returning to the commissioner an absentee ballot which has been voted.

Sec. 12. Section 53.8, subsection 3, unnumbered paragraphs 1 and 3, Code Supplement 1983, are amended to read as follows:

When an application for an absentee ballot is received by the commissioner of any county from a qualified elector who is a patient in a hospital in that county or a resident of any facility in that county shown to be a health care facility by the list of licenses provided the commissioner under section 135C.29, the absentee ballot shall be delivered to the elector and returned to the commissioner in the manner prescribed by section 53.22. However, if the application is received more than ten calendar days before the election and the commissioner has not elected to mail absentee ballots to the applicant as provided under section 53.22, subsection 3, the commissioner shall mail to the applicant within twenty-four hours a letter in substantially the following form:

Nothing in this subsection nor in section 53.22 shall be construed to prohibit a qualified elector who is a hospital patient or resident of a health care facility, or who anticipates entering a hospital or health care facility before the date of a forthcoming election, from casting an absentee ballot in the manner prescribed by section 53.11.

Sec. 13. Section 53.11, Code 1983, is amended to read as follows:

53.11 PERSONAL DELIVERY OF ABSENTEE BALLOT. The commissioner shall deliver an absentee ballot to any qualified elector applying in person at ~~his~~ the commissioner's office not more than forty days before the date of the general election and the primary election, and

for all other elections, as soon as the ballot is available. The qualified elector shall immediately mark the ballot, enclose and seal it in a ballot envelope, with proper subscribe to the affidavit on the reverse side of the envelope, and return the absentee ballot to the commissioner. The commissioner shall record the numbers appearing on the application and ballot envelope along with the name of the qualified elector. The commissioner of any county in which there is located a city of five thousand or more population, which is not the county seat, may permit qualified electors to appear in person at some designated place within each such city and there cast an absentee ballot in the manner prescribed by this section.

Sec. 14. Section 53.12, Code 1983, is amended to read as follows:

53.12 DUTY OF COMMISSIONER. The commissioner shall enclose the absentee ballot in an unsealed envelope, to be furnished by him the commissioner, which envelope shall bear upon its face the words "county commissioner of elections", the address of his the commissioner's office, and the same serial number appearing on the unsealed envelope shall be affixed to the application. The seal of the officer notarizing the affidavit shall, if possible, be placed on the affidavit envelope in such a manner that the ballot will not be marked by the seal, however, if the officer's seal makes an imprint on the ballot that marking shall not invalidate the ballot.

Sec. 15. Section 53.15, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The qualified elector, on receipt of an absentee ballot, shall, in the presence of the officer notarizing the affidavit, mark such the ballot in such a manner that such officer no other person will not know how such the ballot is marked.

Sec. 16. Section 53.16, Code 1983, is amended to read as follows:

53.16 TAKING AND SUBSCRIBING OATH TO AFFIDAVIT. After marking such the ballot, the voter shall, before said officer, make and subscribe to the affidavit on the reverse side of the envelope, and, in the presence of such officer, fold such the ballot, or ballots, separately, so as to conceal the markings thereon on them, and deposit the same them in said the envelope, which shall then be and securely sealed seal the envelope.

Sec. 17. Section 53.17, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

53.17 MAILING OR DELIVERING BALLOT. The sealed envelope containing the absentee ballot shall be enclosed in a carrier envelope which shall be securely sealed. The sealed carrier envelope shall be returned to the commissioner by one of the following methods:

1. The sealed carrier envelope may be delivered by the qualified elector or the elector's designee to the commissioner's office no later than the time the polls are closed on election day.

2. The sealed carrier envelope may be mailed, postage paid, to the commissioner. In order for the ballot to be counted, the carrier envelope must be clearly postmarked by an officially authorized postal service not later than the day before the election and received by the commissioner not later than the time established for the canvass by the board of supervisors for that election. The commissioner shall contact the post office serving the commissioner's office at the latest practicable hour prior to the canvass by the board of supervisors for that election, and shall arrange for absentee ballots received in that post office but not yet delivered to the commissioner's office to be brought to the commissioner's office prior to the canvass for that election by the board of supervisors.

Sec. 18. Section 53.22, subsection 1, Code 1983, is amended to read as follows:

1. a. A qualified elector who has applied for an absentee ballot, in a manner other than that prescribed by section 53.11, and who is a resident or patient in a health care facility or hospital located in the county to which the application has been submitted shall be delivered the

appropriate absentee ballot by two special precinct election officers, one of whom shall be a member of each of the political parties referred to in section 49.13, who shall be appointed by the commissioner from the election board panel for the special precinct established by section 53.20. The special precinct election officers shall be sworn in the manner provided by section 49.75 for election board members, shall receive compensation as provided in section 49.20 and shall perform their duties during the ten calendar days preceding the election and on election day if all ballots requested under section 53.8, subsection 3 have not previously been delivered and returned.

b. If an applicant under this subsection notifies the commissioner that ~~he or she~~ the applicant will not be available at the residence, health care facility or hospital address at any time during the ten-day period immediately prior to the election, but will be available there at some earlier time, the commissioner shall direct the two special precinct election officers to deliver the applicant's ballot at an appropriate time prior to the ten-day period immediately preceding the election. If a person who so requested an absentee ballot has been dismissed from the health care facility or hospital, the special precinct election officers may take the ballot to the elector if ~~he or she~~ the elector is currently residing in the county.

c. ~~The special precinct election officers shall both notarize each absent voter's affidavit as required by section 53.16; any such officer who is not a notary public shall be provided with a stamp containing that person's name and the words "special precinct election officer" and may notarize the absentee affidavits so delivered by signing them and applying the stamp. The special precinct election officers shall travel together in the same vehicle and both shall be present when an applicant casts his or her an absentee ballot. If either or both of the special precinct election officers fails fail to appear at the time the duties set forth in this section are to be performed, the commissioner shall at once appoint some other person, giving preference to persons designated by the respective county chairpersons of the political parties described in section 49.13, to carry out the requirements of this section. The persons authorized by this subsection to deliver an absentee ballot to an applicant, if requested, may assist the applicant in filling out the ballot as permitted by section 49.90. The After the voter has securely sealed the marked ballot in the envelope provided and has subscribed to the oath, the voted absentee ballots shall be deposited in a sealed container which shall be returned to the commissioner on the same day the ballots are voted. On election day the officers shall return the sealed container by the time the polls are closed.~~

Sec. 19. Section 53.22, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 3. For any election except a primary or general election or a special election to fill a vacancy under section 69.14, the commissioner may, as an alternative to subsection 1, mail an absentee ballot to an applicant under this section to be voted and returned to the commissioner in accordance with this chapter. This subsection only applies to applications for absentee ballots from a single health care facility or hospital if there are no more than two applications from that facility or hospital.

Sec. 20. Section 53.44, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

53.44 SIGNING THE AFFIDAVIT. The affidavit on the envelope used in connection with voting by absentee ballot under this division by members of the armed forces of the United States need not be notarized or witnessed, but the affidavit on the ballot envelope shall be completed and signed by the voter.

Sec. 21. This Act, being deemed of immediate importance, takes effect from and after its publication in the Quad City Times, a newspaper published in Davenport, Iowa, and in the Sigourney News-Review, a newspaper published in Sigourney, Iowa. Section 1 of this Act takes effect upon publication. Section 5 of this Act takes effect January 1, 1985. All other sections of this Act take effect on July 1, 1984.

Approved May 8, 1984

I hereby certify that the foregoing Act, House File 2468 was published in the Quad City Times, Davenport, Iowa on May 17, 1984 and in the Sigourney News-Review, Sigourney, Iowa on May 16, 1984.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1292
OPERATING A MOTOR VEHICLE WHILE INTOXICATED
H.F. 2486

AN ACT relating to the offense of operating a motor vehicle while intoxicated by providing civil penalties to be assessed against licensees or permittees, by requiring the dismissal of vendors for selling alcohol to a minor, by providing a definition of alcohol concentration, by providing a special license for persons age nineteen and under, by providing a fine or community service in addition to imprisonment for a first offense and requiring a substance abuse evaluation for a second or subsequent offense of operating a motor vehicle while intoxicated, by providing additional periods of revocation for drivers convicted of operating a motor vehicle while intoxicated who caused an accident in which there was a serious injury or death, by providing for restitution by offending drivers for any damage caused, by providing a special revocation period for persons age nineteen or under, by providing a civil penalty to be assessed against persons convicted of operating a motor vehicle while intoxicated to be used to finance the victim reparation fund, by providing access to the record of previous deferred judgments by county attorneys, and by establishing a study committee to conduct a study on present laws and penalties relating to the offense of operating a motor vehicle while intoxicated and make any recommendations for changes in the law in a report to the general assembly.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 123.50, Code 1983, is amended by adding the following new subsections:
***NEW SUBSECTION. 4.** The department shall adopt rules to establish civil penalties in the amount of one hundred dollars for a first offense, two hundred fifty dollars for a second

*Item veto; see message at end of this Act