

116TH CONGRESS
2D SESSION

H. R. 8344

To require the United States Postal Service to treat election mail as first-class mail and deliver such mail at no cost to the sender, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2020

Ms. LOFGREN introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committee on Oversight and Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require the United States Postal Service to treat election mail as first-class mail and deliver such mail at no cost to the sender, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Election Mail Act of
5 2020”.

6 **SEC. 2. ELECTION MAIL.**

7 (a) TREATMENT OF ELECTION MAIL.—

1 (1) TREATMENT AS FIRST-CLASS MAIL; FREE
2 POSTAGE.—Chapter 34 of title 39, United States
3 Code, is amended by adding at the end the fol-
4 lowing:

5 **“§ 3407. Domestic election mail**

6 “(a) DEFINITION.—In this section, the term ‘election
7 mail’—

8 “(1) means—

9 “(A) a blank or completed voter registra-
10 tion application form, voter registration card, or
11 similar materials, relating to an election for
12 Federal office;

13 “(B) a blank or completed absentee and
14 other mail-in ballot application form, and a
15 blank or completed absentee or other mail-in
16 ballot, relating to an election for Federal office;
17 and

18 “(C) other materials relating to an election
19 for Federal office that are mailed by a State or
20 local election official to an individual who is
21 registered to vote; and

22 “(2) does not include balloting materials cov-
23 ered under section 3406 (relating to the Uniformed
24 and Overseas Citizens Absentee Voting Act).

1 “(b) CARRIAGE OF ELECTION MAIL.—Election mail
2 (individually or in bulk) shall be carried—

3 “(1) in accordance with the service standards
4 established for first-class mail under section 3691;
5 and

6 “(2) free of postage.

7 “(c) POSTMARK REQUIRED FOR BALLOTS.—In the
8 case of any election mail carried by the Postal Service that
9 consists of a ballot, the Postal Service shall indicate on
10 the ballot envelope, using a postmark or otherwise—

11 “(1) the fact that the ballot was carried by the
12 Postal Service; and

13 “(2) the date on which the ballot was mailed.”.

14 (2) REIMBURSEMENT OF POSTAL SERVICE FOR
15 REVENUE FORGONE.—Section 2401(c) of title 39,
16 United States Code, is amended by striking “3406”
17 and inserting “3407”.

18 (b) TECHNICAL AND CONFORMING AMENDMENT.—
19 The table of sections for chapter 34 of title 39, United
20 States Code, is amended by adding at the end the fol-
21 lowing:

“3407. Domestic election mail.”.

22 (c) EFFECTIVE DATE.—

23 (1) IN GENERAL.—The amendments made by
24 this section shall apply to election mail relating to

1 an election for Federal office occurring on or after
2 January 1, 2022.

3 (2) SENSE OF CONGRESS RELATING TO APPLI-
4 CATION TO 2020 GENERAL ELECTION.—It is the
5 sense of Congress that the United States Postal
6 Service should make all reasonable efforts to comply
7 with subsections (b)(1) and (c) of section 3407 of
8 title 39, United States Code, as added by subsection
9 (a)(1) of this section, with respect to election mail
10 relating to the general election for Federal office in
11 2020.

12 **SEC. 3. INTELLIGENT MAIL BARCODES FOR BALLOTS.**

13 (a) IN GENERAL.—Title III of the Help America
14 Vote Act of 2002 (52 U.S.C. 21081) is amended by adding
15 at the end the following new subtitle:

16 **“Subtitle C—Requirements**
17 **Relating to Mailed Ballots**

18 **“SEC. 321. USE OF INTELLIGENT MAIL BARCODES.**

19 “(a) IN GENERAL.—Each State and jurisdiction shall
20 provide with each ballot for an election for Federal office
21 that is sent by mail a return envelope that contains an
22 intelligent mail barcode, as prescribed by the United
23 States Postal Service.

24 “(b) EXCEPTION.—Subsection (a) shall not apply to
25 any ballot for which a State or jurisdiction uses an alter-

1 native system that enables voters to track the ballot
2 through the mail.

3 “(c) STATE.—For purposes of this section, the term
4 ‘State’ includes the District of Columbia, the Common-
5 wealth of Puerto Rico, Guam, American Samoa, the
6 United States Virgin Islands, and the Commonwealth of
7 the Northern Mariana Islands.”.

8 (b) ENFORCEMENT.—Section 401 of the Help Amer-
9 ica Vote Act of 2002 (52 U.S.C. 21111) is amended by
10 inserting “or the requirements for mailed ballots under
11 subtitle C of title III” before the period at the end.

12 (c) CLERICAL AMENDMENT.—The table of contents
13 of such Act is amended by inserting after the item relating
14 to section 312 the following:

“Subtitle C—Requirements Relating to Mailed Ballots

“Sec. 321. Use of intelligent mail barcodes.”.

15 **SEC. 4. DEADLINES FOR BALLOTS SUBMITTED BY MAIL.**

16 (a) IN GENERAL.—Subtitle C of title III of the Help
17 America Vote Act of 2002, as added by section 3, is
18 amended by adding at the end the following new section:

19 **“SEC. 322. DEADLINE FOR BALLOTS SUBMITTED BY MAIL.**

20 “(a) IN GENERAL.—Each State and jurisdiction shall
21 count a ballot submitted by an individual by mail with re-
22 spect to an election for Federal office in the State—

23 “(1) if it is postmarked, signed, or otherwise in-
24 dicated by the United States Postal Service to have

1 been mailed on or before the close of polls on the
2 date of the election; and

3 “(2) received by the appropriate State election
4 official on or before the date that is 10 days after
5 the date of such election.

6 “(b) NO INFERENCE.—Nothing in this section shall
7 be construed as prohibiting a State or jurisdiction from
8 having a law that allows for counting ballots in an election
9 for Federal office that are received through the mail after
10 the date that is 10 days after the date of the election.”.

11 (b) PRIVATE RIGHT OF ACTION.—Title IV of the
12 Help America Vote Act of 2002 (52 U.S.C. 21111 et seq.)
13 is amended by adding at the end the following new section:

14 **“SEC. 403. PRIVATE RIGHT OF ACTION FOR VIOLATIONS OF**
15 **MAIL-IN BALLOT DEADLINE.**

16 “(a) IN GENERAL.—In the case of a violation of sec-
17 tion 322, section 402 shall not apply and any person who
18 is aggrieved by such violation may provide written notice
19 of the violation to the chief election official of the State
20 involved.

21 “(b) RELIEF.—If the violation is not corrected within
22 5 days after receipt of the notice, the aggrieved person
23 may, in a civil action, obtain declaratory or injunctive re-
24 lief with respect to the violation.

1 “(c) NOTICE NOT REQUIRED.—The aggrieved person
2 need not provide notice to the chief election official of the
3 State involved under subsection (a) before bringing a civil
4 action under subsection (b).”.

5 (c) CLERICAL AMENDMENTS.—The table of contents
6 of such Act, as amended by section 3, is amended—

7 (1) by inserting after the item relating to sec-
8 tion 321 the following new item:

“Sec. 322. Deadline for ballots submitted by mail.”;

9 and

10 (2) by inserting after the item relating to sec-
11 tion 402 the following:

“Sec. 403. Private right of action for violations of mail-in ballot deadline.”.

12 **SEC. 5. GREATER VISIBILITY FOR BALLOTS.**

13 (a) IN GENERAL.—Subtitle C of title III of the Help
14 America Vote Act of 2002, as added by section 3 and
15 amended by section 4, is amended by adding at the end
16 the following new section:

17 **“SEC. 323. BALLOT VISIBILITY.**

18 “Each State or local election official shall—

19 “(1) affix Tag 191, Domestic and International
20 Mail-In Ballots (or any successor tag designated by
21 the United States Postal Service), to any tray or
22 sack of ballot mail relating to an election for Federal
23 office that is destined for a domestic or international
24 address;

1 “(2) use the Official Election Mail logo to des-
2 ignate mail pieces relating to an election for Federal
3 office that is destined for a domestic or international
4 address; and

5 “(3) if an intelligent mail barcode (as described
6 in section 321) is utilized for any mail relating to an
7 election for Federal office that is destined for a do-
8 mestic or international address, ensure the specific
9 ballot service type identifier for such mail is visi-
10 ble.”.

11 (b) CLERICAL AMENDMENT.—The table of contents
12 for such Act, as amended by sections 3 and 4, is amended
13 by inserting after the item relating to section 322 the fol-
14 lowing new item:

 “Sec. 323. Ballot visibility.”.

15 **SEC. 6. EFFECTIVE DATE.**

16 (a) IN GENERAL.—Subtitle C of title III of the Help
17 America Vote Act of 2002 (52 U.S.C. 20901 et seq.), as
18 added by section 3 and amended by sections 4 and 5, is
19 amended by adding at the end the following new section:

20 **“SEC. 324. EFFECTIVE DATE.**

21 “The requirements of this subtitle shall apply to elec-
22 tions for Federal office occurring on and after January
23 1, 2022.”.

24 (b) CLERICAL AMENDMENT.—The table of contents
25 for such Act, as amended by sections 3, 4, and 5, is

1 amended by inserting after the item relating to section
2 323 the following new item:

“Sec. 324. Effective date.”.

3 (c) SENSE OF CONGRESS RELATING TO APPLICATION
4 TO 2020 GENERAL ELECTION.—It is the sense of Con-
5 gress that States and jurisdictions should make all reason-
6 able efforts to comply with the provisions of subtitle C of
7 title III of the Help America Vote Act of 2002, as added
8 by this Act, for the general election for Federal office in
9 2020.

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