

HOUSE No. 1977

Mr. McCarthy of East Bridgewater moves that this bill be substituted for a bill with the same title (House, No. 1909). May 29.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Forty-Five.

AN ACT AUTHORIZING ABSENT VOTING BY PERSONS WHO ARE UNABLE BY REASON OF PHYSICAL DISABILITY TO VOTE IN PERSON.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter fifty-four of the General Laws
2 is hereby amended by striking out section eighty-six,
3 as appearing in the Tercentenary Edition, and in-
4 serting in place thereof the following: —

5 *Section 86.* Any voter who on the day of the
6 biennial state election is absent from the city or town
7 where he is registered or who is unable by reason of
8 physical disability to cast his vote in person at the
9 polling place, and whose application for an official
10 absent voting ballot has been filed with the city or
11 town clerk as provided in section eighty-nine, or with
12 the state secretary as provided in section ninety, and
13 certified under section ninety-one, may vote in ac-
14 cordance with sections eighty-seven to one hundred
15 and three, inclusive; provided, that a voter who is in

16 a penal institution under sentence shall not be en-
 17 titled or permitted to avail himself of the provisions
 18 of this and the seventeen following sections; and
 19 provided, further, that a voter who is unable by
 20 reason of physical disability to cast his vote in person
 21 at the polling place shall file with the city or town
 22 clerk with his application for an official absent voting
 23 ballot a certificate executed by a registered physician,
 24 superintendent or registered nurse of a hospital or like
 25 institution or a practitioner of the Christian Science
 26 Church, stating that the voter is unable by reason of
 27 physical disability to cast his vote in person at the
 28 polling place on the day of election.

1 SECTION 2. Clause (b) of section eighty-seven of
 2 said chapter fifty-four, as amended by section one of
 3 chapter four hundred and four of the acts of nineteen
 4 hundred and thirty-six, is hereby further amended
 5 by inserting before the certificate of the registrars
 6 of voters the following: —

(If unable by reason of physical disability to cast his vote in person at the polling place the applicant will sign the following:)

I hereby certify that I will be unable by reason of physical disability to cast my vote in person at the polling place on the day of the election.

(Signature)

(Date)

CERTIFICATE OF PHYSICIAN, SUPERINTENDENT, REGISTERED
 NURSE OR CHRISTIAN SCIENCE PRACTITIONER.

I,.....certify that the applicant....., personally known to me, will by reason of physical disability be unable to cast his vote at the polling place on the day of the election.

Name
 Residence
 Designation

1 SECTION 3. Clause (c) of said section eighty-seven,
 2 as most recently amended by section nine of chapter
 3 one of the acts of nineteen hundred and forty-four,
 4 is hereby further amended by striking out the first
 5 paragraph of the first affidavit, as appearing in sec-
 6 tion two of chapter two hundred and seventy-nine
 7 of the acts of nineteen hundred and forty-one, and
 8 inserting in place thereof the following: —

State of _____,
 County of _____, ss.

I, _____, do solemnly swear that I am a registered voter in the city or town of _____, Massachusetts, in precinct _____, ward _____, that the place where I now am is not the municipality in which I am a registered voter, or that I will be unable by reason of physical disability to cast my vote in person at the polling place on the day of the election; that I have carefully read the instructions forwarded to me with the ballot herein enclosed, and that I have marked, enclosed and sealed the within ballot as stated hereon by the person taking my oath.

(Signature)

1 SECTION 4. Said chapter fifty-four is hereby fur-
 2 ther amended by striking out section ninety-two, as
 3 most recently amended by section one of chapter two
 4 hundred and seventy-nine of the acts of nineteen
 5 hundred and forty-one, and inserting in place thereof
 6 the following section: — *Section 92.* A voter who has
 7 received an official absent voting ballot as provided
 8 in section eighty-nine may vote by mailing the same
 9 to the city or town clerk, or, if on the day of the bien-
 10 nial state election he will be on the high seas in the
 11 prosecution of the business of fishing or as a mariner,
 12 by delivering the same to such clerk. He shall mark
 13 said ballot in the presence of an official authorized by
 14 law to administer oaths, and of no other person, in a
 15 municipality other than the city or town wherein the

16 voter is registered, or in the municipality wherein he
17 is registered in case he applied for said ballot because
18 he would be unable by reason of physical disability
19 to cast his vote in person at the polling place on elec-
20 tion day, or, if on the day of the biennial state election
21 he will be on the high seas in the prosecution of the
22 business of fishing or as a mariner, he may mark said
23 ballot in the presence of the city or town clerk, and
24 of no other person, in the municipality wherein he is
25 registered. Before marking the ballot he shall ex-
26 hibit it to said official, who shall satisfy himself that
27 it is unmarked, but he shall not allow said official to
28 see how he marks it. Said official shall hold no com-
29 munication with the voter, nor he with said official,
30 as to how he is to vote. Thereafter the voter shall
31 enclose and seal the same in the proper envelope pro-
32 vided for by clause (c) of section eighty-seven. He
33 shall then execute before said official the necessary
34 affidavit on said envelope as set forth in said clause
35 (c), and shall enclose and seal the envelope with the
36 ballot in the envelope provided for in clause (d) of
37 said section, endorse thereon his name, address and
38 voting place, and mail the same within the time pre-
39 scribed in the following section, postage prepaid, at a
40 post office in a municipality other than the city or
41 town wherein the voter is registered, or in any munici-
42 pality in case he applied for said ballot because he
43 would be unable by reason of physical disability to
44 cast his vote in person at the polling place on election
45 day, or, if on the day of the biennial state election he
46 will be on the high seas in the prosecution of the busi-
47 ness of fishing or as a mariner, may deliver the same
48 within the time so prescribed to the clerk of the mu-
49 nicipality wherein he is registered.

50 Any ballot which was applied for by a voter because
51 he would be unable by reason of physical disability
52 to cast his vote in person at the polling place at an
53 election shall be defective if the official in whose
54 presence it was marked and before whom the affidavit
55 required was executed is a candidate for office at such
56 election.

1 SECTION 5. Section ninety-five of said chapter
2 fifty-four, as amended by section six of chapter four
3 hundred and four of the acts of nineteen hundred
4 and thirty-six, is hereby further amended by inserting
5 after the word "be" in the thirty-first line the follow-
6 ing sentence: — If he finds an envelope to bear an
7 affidavit executed in violation of section ninety-two
8 before an official who is a candidate for election at the
9 election, he shall not open the envelope, but shall
10 mark across the face thereof "Rejected as defective".

1 SECTION 6. Section ninety-eight of said chapter
2 fifty-four, as appearing in the Tercentenary Edition,
3 is hereby amended by adding at the end the follow-
4 ing: — An absent voter who is unable to vote in per-
5 son by reason of physical disability, if unable to mark
6 his ballot, may also have it marked for him by a clerk
7 or assistant clerk of a city or town of the common-
8 wealth or a notary public commissioned in the com-
9 monwealth. A city or town clerk or assistant clerk or
10 a notary public who marks any such ballot shall be
11 subject to the provisions of this section applicable in
12 case a clerk of a court of record marks such a ballot.

