HOUSE . . . . . No. 3352

By Mr. McIntyre of New Bedford, petition of Michael J. Connolly, Joseph B. McIntyre, Thomas M. Petrolati and Stanley C. Rosenberg for legislation to simplify the absentee voting laws of the Commonwealth. Election Laws.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT SIMPLIFYING THE ABSENTEE VOTING LAWS.

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

SECTION 1. Section 1 of chapter 50 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting the following definitions in their appropriate alphabetical position: —

"Family member" shall mean a spouse, father, mother, sister or brother of the whole or half blood, son, daughter, adopting parent or adopted child, step parent or step child, uncle, aunt, niece, nephew, grandparent or grandchild.

"Specially qualified voters" shall mean persons who are otherwise eligible to register as voters; whose last domicile immediately before departure from the United States was, or whose present domicile is, Massachusetts; and who, throughout the seven days immediately preceding the final day for registration under section twenty-six of chapter fifty-one, were:

(a) absent from their city or town of residence, and in the active service of the armed forces or in the merchant marine of the United States or a spouse or dependent of such a person; or

(b) absent from the commonwealth; or

(c) confined in a correctional facility or jail.

SECTION 2. Section 50 of chapter 51 of the General Laws, as-appearing in the 1990 Official Edition, is hereby amended by

striking out the words "voter' in section one hundred and three B of chapter 54" and inserting in place thereof the words: — voters" in section one of chapter fifty.

SECTION 3. Section 86 of chapter 54 of the General Laws, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "hundred and three B of chapter fifty-four" and inserting in place thereof the words: — of chapter fifty.

SECTION 4. Said section 86 is hereby further amended by striking out in line 13 the words "or eighty-nine A".

SECTION 5. Section 87 of said chapter 54, as so appearing, is hereby amended by striking out the sentence in lines 8 through 13.

SECTION 6. Said section 87 is hereby further amended by striking out in lines 15 and 16 the words "affidavits of the voter and of the witness to his oath that they have complied" and inserting in place thereof the words: — the voter's affidavit of compliance.

SECTION 7. Said chapter 54 is hereby amended by striking out section 89 and inserting in place thereof the following section: —

Section 89. Any form of written communication evidencing a desire that an absent voting ballot be sent for use for voting at any election shall be given the same effect as an application made in the form prescribed by the state secretary. No application shall be deemed to be seasonably filed unless it is received in the office of the city or town clerk or the registrars of voters before noon on the day preceding the election for which such absent voting ballot is requested, but if the day preceding the election is a Sunday or legal holiday, then before five o'clock post meridian on the last previous day on which the office is open. An application by a voter admitted after noon of the fifth day before the relevant election to a health care facility, as provided in subsection (c) of section ninety-one B, may be received until the time when the polls close.

18 The provisions of section eighty-one shall apply to absent voting
19 ballots; provided, that no request for a substitute ballot from a
20 voter who has received his ballot by mail shall be valid unless it
21 is accompanied by the spoiled ballot and unless it is received in
22 the office of the city or town clerk or the registrars of voters before
23 noon on the day preceding the election for which such substitute
24 absent voting ballot is requested.
25 No ballot shall be mailed or delivered as provided in
26 section ninety-one B until an application has first been filed, and
27 certified by the registrars and returned to the clerk as provided
28 in section ninety-one. Said application may request an absent
29 voting ballot for each regular or special primary and regular or
30 special election which occurs within the calendar year in which
31 the application is received by the city or town clerk or registrars.
32 A family member of a person qualified to vote by absent voting
33 ballot may apply in the same manner on behalf of such person.
34 The applicant shall state his relationship to the absent voter, shall
35 sign the application under the penalty of perjury, and shall
36 transmit the application to the clerk of the city or town of the
37 absent voter's residence.

1 SECTION 8. Section eighty-nine A of said chapter fifty-four
2 is hereby repealed.

1 SECTION 9. Section 91 of said chapter 54, as appearing in the
2 1990 Official Edition, is hereby amended by striking out in lines 5
3 and 6 the words "the parent of a duly registered voter as set forth
4 in sections eighty-six and eighty-nine A" and inserting in place
5 thereof the words: — if they believe the applicant to be a family
6 member of a registered voter.

1 SECTION 10. Said section 91 is hereby amended by striking
2 out the third sentence.

1 SECTION 11. Said chapter 54 is hereby further amended by
2 inserting after section 91 the following sections: —
3 Section 91A. A specially qualified voter, as defined in
4 section one of chapter fifty, who has the qualifications for absent
5 voting in section eighty-six, or a family member of such a specially

6 qualified voter, may apply for an absent voting ballot in the
7 manner prescribed by section eighty-nine. The registrars may
8 cause an investigation of any such resident's qualifications to be
9 made by a police officer who shall forthwith after such investi-
10 gation report to them his findings with respect thereto, and for
11 this purpose the board or officer in charge of the police force of
12 the city or town shall give the registrars such assistance as they
13 may require.
14 If the registrars certify that such a resident has the qualifications
15 for voting, the clerk shall deliver an official absent voting ballot
16 to that resident in the manner prescribed by section ninety-one B.
17 If the registrars do not so certify, they shall give written notice
18 thereof to the applicant and give him an opportunity to be heard.
19 The registrars shall seasonably before every election prepare lists
20 of the names and addresses of specially qualified voters so certified
21 by them. They shall promptly post such lists in their principal
22 office and transmit a copy of the list for each precinct to the
23 election officers of that precinct.
24 Applications under this section shall be subject to challenge
25 under sections forty-seven A through forty-nine of chapter fifty-
26 one, and to the penalties for offenses concerning the listing or
27 registration of voters provided by sections one, two, five, six,
28 seven, eight and nine of chapter fifty-six.
29 Section 91B. The official absent voting ballot and accompa-
30 nying papers described in section eighty-seven shall be delivered
31 as follows:
32 (a) Except as required by subsections (b) and (c) the ballot
33 and accompanying papers shall be mailed postage prepaid, or if
34 the voter so requests, be delivered when called for at the office
35 of the clerk. No ballot shall be mailed to a designated health care
36 facility within the city or town where the voter is registered.
37 (b) To a voter who is a patient or resident at a designated health
38 care facility, the ballot and accompanying papers shall be
39 delivered in person by a registrar, assistant registrar or absent
40 registration officer, at the designated address. "Designated health
41 care facility" shall mean a health care facility as defined by
42 section twenty-five B of chapter one hundred and eleven, within
43 the city or town, which has been designated for the purpose of

44 supervised absentee voting in a writing filed with the city or town
45 clerk, not later than twenty-eight days before any primary or
46 election, by the city or town clerk or by any two registrars or
47 election commissioners.
48 (c) To a voter who states under penalty of perjury that he has
49 been admitted, after noon of the fifth day before the relevant
50 election, to any health care facility, as defined by said
51 section twenty-five B, the ballot and accompanying papers shall,
52 unless the clerk determines that there is clearly insufficient time,
53 be delivered in the same manner as in subsection (b); but if
54 allowed in the sole discretion of the city or town clerk, any person
55 designated in writing by the voter, except a candidate for any
56 office at the election, may instead perform the functions of the
57 election official. If the health care facility is outside the city or
58 town and no such family member is available for this purpose,
59 the ballot need not be delivered in person, but may be mailed
60 instead.

1 SECTION 12. Said chapter 54 is hereby further amended by
2 striking out section 92 and inserting in place thereof the following
3 section: —
4 Section 92. A voter who has received an official absent voting
5 ballot shall mark it in the presence of no other person, except as
6 provided in section ninety-eight. The voter shall then enclose and
7 seal the ballot in the envelope provided for in subsection (c) of
8 section eighty-seven, and execute the affidavit on that envelope.
9 The voter shall return the ballot, sealed in that envelope, in the
10 following manner:
11 (a) A voter who received the ballot by mail, as provided in
12 subsection (a) of section ninety-one B, shall mail it to the city or
13 town clerk in the envelope provided for in subsection (d) of
14 section eighty-seven, or the voter or a family member may deliver
15 it in person to the office of the city or town clerk. A voter to whom
16 the ballot was delivered in person at the office of the clerk as
17 provided in said subsection (a) shall return it without removing
18 the ballot from that office.
19 (b) A voter to whom an election official delivered the ballot
20 in person at a designated health care facility, as provided in

21 subsection (b) of section ninety-one B, shall return it to that
22 election official, who shall return it in his custody to the office
23 of the city or town clerk.
24 (c) A voter to whom a ballot was delivered in person as
25 provided in subsection (c) of section ninety-one B shall return it
26 to the person who delivered it, and that person shall immediately
27 return it in his custody to the office of the city or town clerk.

1 SECTION 13. The first paragraph of section 94 of said
2 chapter 54, as appearing in the 1990 Official Edition, is hereby
3 amended by striking out the second and third sentences and
4 inserting in place thereof the following sentences: — He shall
5 remove therefrom the inner envelope provided for in subsection
6 (c) of section eighty-seven and, without opening such inner
7 envelope, shall compare the signature thereon with the signature
8 on the application therefor, except if a family member signed the
9 application or if the voter received assistance in signing the appli-
10 cation or the envelope, and shall examine the affidavit on each
11 envelope. If he finds that such affidavit has been improperly
12 executed, or does not sufficiently indicate that the ballot was
13 marked and mailed or delivered as required by sections ninety-
14 two and ninety-three, or except as provided in the preceding
15 sentence was not signed by the person who signed the application
16 therefor, he shall mark across the face thereof "Rejected as
17 Defective", and shall place on the absent voting disposition list
18 required by section ninety-one or section ninety-one A, as the case
19 may be, opposite the name of the voter the capital letter R.

1 SECTION 14. The first paragraph of said section 94 is hereby
2 further amended by striking out the fourth sentence and inserting
3 in place thereof the following sentence: — If he does not mark
4 the envelope "Rejected as defective", he shall mark a check against
5 the name of the voter on the absent voting disposition list required
6 by section ninety-one or section ninety-one A, as the case may
7 be.

1 SECTION 15. Section 95 of said chapter 54, as so appearing,
2 is hereby amended by striking out in lines 15 through 20 the words

3 "list referred to in section one hundred and three M of
4 chapter fifty-four, as the case may be, if it has not already been
5 so checked. He shall then remove from such envelope the envelope
6 referred to in subsection (c) of section eighty-seven or subsec-
7 tion (b) of section one hundred and three O, as the case may be,"
8 and inserting in place thereof the words: — specially qualified
9 voters' disposition list required by section ninety-one A, as the
10 case may be, if it has not already been so checked. He then.

1 SECTION 16. Section 100 of said chapter 54, as so appearing,
2 is hereby amended by striking out in lines 4 and 5 the words "or
3 SAV have been placed, as provided in section ninety-one or in
4 section one hundred and three G, as the case may be" and inserting
5 in place thereof the words: — have been placed as provided in
6 section ninety-one.

1 SECTION 17. Said section 100 is hereby further amended by
2 striking out, in lines 14 through 16, the words ", or opposite whose
3 name the letter R has not been marked on the list of absent
4 voters,".

1 SECTION 18. Sections one hundred and three B through one
2 hundred and three O, inclusive, of said chapter fifty-four are
3 hereby repealed.

1 SECTION 19. The first paragraph of section 103P of said
2 chapter 54, as appearing in the 1988 Official Edition, is hereby
3 amended by strking out the first sentence.

1 SECTION 20. Section 103Q of said chapter 54, as so
2 appearing, is hereby amended by striking out in lines 2 and 3 the
3 words "by specially qualified voters".