



# SENATE BILL 824: Implementation of Voter ID Const. Amendment.

2017-2018 General Assembly

<b>Committee:</b>	Senate Select Committee on Elections. If favorable, re-refer to Rules and Operations of the Senate	<b>Date:</b>	November 27, 2018
<b>Introduced by:</b>	Sens. Krawiec, Ford, Daniel	<b>Prepared by:</b>	Jessica Sammons Staff Attorney
<b>Analysis of:</b>	First Edition		

**OVERVIEW:** *Senate Bill 824 would do the following:*

- *Implement the constitutional requirement requiring voters offering to vote in person to present photographic identification before voting.*
- *Require county boards of elections to issue free voter photo identification cards to registered voters upon request.*
- *Waive the fee for a special identification card issued by the DMV for all applications who are at least 17 years old, and provide for an automatic special identification card issued to individuals whose drivers license is seized or surrendered.*
- *Create a new Class I felony for any person to counterfeit, sell, lend to, or knowingly permit the unauthorized use of a form of photo identification for the purpose of voting.*
- *Allow the chair of each political party to designate up to 100 additional at-large observers who may attend any voting place in the State.*

**CURRENT LAW:** For each voter in the State, when appearing at the polls, that voter must state his or her name and residence address to the election official. The individual, if verified by the election official as a registered voter, must then sign his or her name to the poll book, other voting record, or voter authorization document prior to voting. G.S. 163A-1137. County boards may not require voters to show voter registration cards to vote. G.S. 163A-869.

**Showing of ID – Certain First Time Voters:** A voter registering by mail, who has not previously voted in an election with a federal ballot item, must provide one of the following forms of Help America Vote Act (HAVA) identification prior to voting in person:

- A current and valid photo ID.
- A copy of one of the following documents that shows the name and address of the voter: current utility bill, bank statement, government check, paycheck, or other government document.

A voter is exempted from showing identification if that individual included as part of his or her voter registration one of the forms of ID listed above, or his or her drivers license number or the last four digits of his or her social security number which matched an existing State identification record. Also exempt are overseas and military voters entitled to vote by absentee ballot under the Uniform Military and Overseas Voter Act (Part 2 of Article 21 of Chapter 163A) and voters entitled to vote other than in person under the federal Voting Accessibility for the Elderly and Handicapped Act. G.S. 163A-1144.

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**Special Identification Cards** – Individuals may obtain a special identification card for nonoperators from the Division of Motor Vehicles (DMV) which requires the same documentation of identity and residence as a NC drivers license. The fee for a special ID card is currently \$13. The fee is waived for those who are legally blind, older than 70, homeless, or who have had a license canceled due to physical or mental disability or disease. The fee is also waived if the individual signs a declaration that the voter is: (i) registered or registering to vote, and (ii) does not have other photo ID to vote. False or fraudulent statements on these declarations are a Class I felony. G.S. 20-37.7.

Voters in the November 2018 election approved amendments to the North Carolina Constitution to require voters offering to vote in person to present photographic identification before voting.

## **BILL ANALYSIS:**

**Part I** would implement the constitutional requirement requiring voters offering to vote in person to present photographic identification before voting.

- **Photo Identification Requirement (Section 1.2)** – Would establish G.S. 163A-1145.1, requiring all voters voting in person to present photo ID, subject to the exceptions noted below.

The precinct official would verify that the photograph is that of the person seeking to vote. If the precinct official disputes that the photograph is that of the person seeking to vote, a challenge would be heard and decided by the judges of the precinct. Voters without photo ID would vote a provisional ballot. If the voter brings an acceptable form of photo ID to the county board of elections no later than the end of business of the business day before canvass, the ballot would be counted.

- **Acceptable Forms of Photo Identification for Voting Identification (Section 1.2)**
  - Any of the following that contains a photograph of the voter and is valid and unexpired, or has been expired for one year or less:
    - NC drivers license.
    - NC special identification card or other form of non-temporary ID issued by the DMV.
    - US passport.
    - NC voter photo identification card.
    - Tribal enrollment card issued by a federally recognized tribe.
    - Tribal enrollment card issued by a tribe recognized by NC under Chapter 71A that is (i) issued in accordance with a process approved by the State Board requiring an application and proof of identity equivalent to the process for approving a college or university identification card, and (ii) signed by an elected official of the tribe.
    - Student identification card issued by a constituent institution of The University of North Carolina, the North Carolina Community College system, or eligible private postsecondary institutions, if approved by the State Board.
    - Employee identification card issued by a state or local government entity, including a charter school, if approved by the State Board.
    - Drivers license or special identification card issued by another state, D.C., or a territory or commonwealth of the US, only if the voter's voter registration was within 90 days of the election.
  - Any of the following that contain a photograph of the voter, regardless of whether the card contains an expiration or issuance date:
    - US military identification card.

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- Veterans Identification Card issued by the US Department of Veterans Affairs for use at Veterans Administration medical facilities.
- For voters over the age of 65, any of the identification cards above that bear a date of expiration that was not expired on the day that the voter reached the age of 65.

For any election held before January 1, 2021, any approved student identification card or employee identification card that does not contain an expiration date would be deemed an acceptable form of photo identification.

## • **Approval of Student and Employee Identification Cards for Voting Identification (Section 1.2)**

The State Board would be required to approve the use of: (i) student identification cards issued by a constituent institution of The University of North Carolina, the North Carolina Community College system, or eligible private postsecondary institutions, and (ii) employee identification cards issued by a state or local government entity, including a charter school, if the following criteria is met:

- 1) The chancellor, president or registrar of the university or college, or the head elected official or lead human resources employee of the state or local government entity, submits a letter signed under penalty of perjury that the following are true:
  - The ID cards contain photos of the individual taken by the university, college, or government employer.
  - The ID cards are issued after confirming the identity of the individual, including the individual's social security number, citizenship status, and birthdate.
  - The equipment that produces the cards is kept in a secure location.
  - Misuse of the equipment producing the cards is grounds for discipline of a student or termination of an employee.
  - Any misuse of equipment is reported to law enforcement.
  - The cards issued have an expiration date, effective January 1, 2021.
  - Copies of the cards are provided to the State Board to assist with training purposes.
- 2) The university, college, or government employer complies with any other reasonable security measures deemed necessary by the State Board.

The State Board would be required to approve use of ID cards from any universities, colleges, or government employers submitting the required criteria no later than March 15, 2019 for primaries and elections held in 2019 and 2020, no later than May 15, 2021 for elections beginning after that date, and every four years thereafter.

The State Board would be required to produce a list of participating universities, colleges, and government employers every four years, publish the list on the State Board's website, and distribute the list to every county board of elections, with the initial list produced no later than April 1, 2019.

The State Board would adopt temporary rules on reasonable security measures for the use of student or employee identification cards for voting identification no later than February 1, 2019, and permanent rules no later than May 15, 2021.

## • **Exceptions to the Photo Identification Requirement (Section 1.2)**

- **Religious Objection** – A voter who does not produce a photo ID due to a religious objection to being photographed may complete an affidavit under penalty of perjury at the voting place

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and affirm that the voter: (i) is the same person personally appearing at the voting place, (ii) will cast a provisional ballot, and (iii) has a religious objection to being photographed.

- **Reasonable Impediment** – A voter who suffers from a reasonable impediment that prevents the voter from presenting photo ID may complete an affidavit under penalty of perjury at the voting place and affirm that the voter: (i) is the same person personally appearing at the voting place, (ii) will cast a provisional ballot, and (iii) suffers from a reasonable impediment that prevents the voter from presenting photo ID.
- **Natural Disaster** – A voter who does not produce a photo ID due to being a victim of a natural disaster occurring within 60 days before election day that resulted in a disaster declaration by the President of the United States and Governor of this State may complete an affidavit under penalty of perjury at the voting place and affirm that the voter: (i) is the same person personally appearing at the voting place, (ii) will cast a provisional ballot, and (iii) was a victim of the natural disaster.

A voter completing the affidavit for religious objection, reasonable impediment, or natural disaster will cast a provisional ballot. If the county board of elections determines that the voter voted a provisional ballot only due to the inability to provide proof of ID and the required affidavit is submitted, the county board must count the provisional ballot, unless the county board has grounds to believe the affidavit is false.

For the 2019 municipal elections, a voter who does not produce photo ID when presenting to vote in person would be allowed to complete a reasonable impediment affidavit and vote a provisional ballot, listing as the impediment not being aware of the photo ID requirement or failing to bring photo ID to the voting place.

- **Voter Photo Identification Cards (Section 1.1)** – The county board of elections would be required to issue free voter photo identification cards upon request to registered voters. This card would contain the voter's photo and voter registration number, and expire eight years from the date of issuance.

The State Board would provide necessary equipment to the county boards to print the cards, and the county boards would operate and maintain the equipment. County boards would also be required to maintain a secure database containing the photographs of the registered voters. The State Board would adopt rules for implementation, with temporary rules required no later than April 15, 2019, ensuring, at a minimum, the following:

- Voters must provide their date of birth and last four digits of social security number to obtain the card.
  - The cards must be issued upon request at all times, except during the time between the voter registration deadline and the date of the primary or election.
  - Voters may obtain a free duplicate card upon request in person or by telephone or mail.
- **Special Identification Cards (Section 1.3)** – The fee for special identification cards for nonoperators would be waived for applicants who are at least 17 years old. The requirement that the voter sign a declaration stating that the voter is registered or registering to vote and does not have a photo ID needed to vote would be repealed.

For any person whose drivers license, permit, or endorsement is seized or surrendered due to cancellation, disqualification, suspension, or revocation, the DMV would be required to automatically issue a special identification card to the individual, mailed to the individual's address on file, at no charge.

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- **Voter Education Program (Section 1.5)** – The State Board would be required to educate the public on the voter ID provisions through the following:
  - Post information at the State Board, county boards of elections, and their respective websites.
  - Train precinct officials at training sessions on how to answer questions by voters.
  - Disseminate information by precinct officials at each election.
  - Conduct at least two seminars in each county prior to September 1, 2019.
  - Coordinate with local and service organizations to provide informational seminars.
  - Coordinate with local media outlets, county boards of commissions, and county boards of elections to disseminate information in a way that would reasonably inform the public, including in Spanish and other languages deemed necessary.
  - Provide educational materials to underserved and minority communities.
  - Notify each registered voter who does not have a NC issued drivers license or special ID card of the voter ID provisions, the requirements to vote absentee, early, and on election day, a description of voting by provisional ballot, and the availability of a free NC voter photo identification card no later than September 1, 2019.
  - Mail information on presenting photo ID, the options for provisional voting, and a description of voting mail-in absentee to all registered voters twice in 2019 and twice in 2020.

County boards of elections would be required to make available information on photo ID to all voters in the 2019 municipal and primary and election and at the 2020 primary election.

**Part II** would repeal uncodified sections of Session Law 2013-381 and Session Law 2015-103 requiring photo IDs that were enjoined by federal courts.

**Part III** would repeal codified sections of Session Law 2013-381 and Session Law 2015-103 requiring photo IDs that were enjoined by federal courts, and would make the following changes:

- Allow any other registered voter to issue a challenge on the day of a primary or election for a voter failing to present photo ID.
- Create a new Class I felony for any person to counterfeit, sell, lend to, or knowingly permit the use of, by one not otherwise entitled, a form of photo identification for the purpose of voting.
- Allow the chair of each political party in the State to designate up to 100 additional at-large observers, provided they are registered voters of the State and of good moral character, who may attend any voting place in the State.

**EFFECTIVE DATE:** County board of elections would be required to issue voter photo identification cards no later than May 1, 2019. The remainder of this act is effective when it becomes law.

**BACKGROUND:** In NAACP v. McCrory, the defendants were enjoined from implementing certain portions of Session Laws 2013-381 and Session Laws 2015-103, relating to photo IDs and changes to early voting, same-day registration, out-of-precinct voting, and preregistration, and the pertinent statutory provisions in effect prior to those amendments were declared to be in full force.