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HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 79

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO REGISTRATION OF VOTERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 2050, Title 15 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 2050 Registration through state agencies.

4 (a) Registration through the Division of Motor Vehicles.

5 ~~(1) In addition to registration as provided for elsewhere in this chapter, each application for a motor vehicle~~
6 ~~driver's license under the laws of Delaware (including any renewal application) shall serve as an application for voter~~
7 ~~registration.~~

8 ~~(2) An application for voter registration submitted under paragraph (a)(1) of this section shall be considered as~~
9 ~~updating any previous voter registration by the applicant.~~

10 ~~(3) An applicant for a motor vehicle license may decline in writing to be registered to vote by way of the~~
11 ~~application for a motor vehicle driver's license. The fact that an applicant has declined to be registered through the~~
12 ~~motor vehicle application process shall not be used for any purpose other than voter registration.~~

13 ~~(4) Applications for a motor vehicle license shall include as a part of the application a voter registration~~
14 ~~component. The voter registration component may not require any information which duplicates information required~~
15 ~~in the motor vehicle license component other than a second signature or information listed in paragraph (a)(5)a. of this~~
16 ~~section. If the applicant desires not to register to vote, the transmission of an electronic record will notify the~~
17 ~~Department of Elections of the applicant's intention.~~

18 ~~(5) The voter registration component of the motor vehicle license application shall contain:~~

19 a. ~~The minimum amount of information necessary to ensure the prevention of duplicate voter registrations~~
20 ~~and preserve the ability of election officials to determine eligibility of the applicant and otherwise administer voter~~
21 ~~registration and the election process;~~

b. ~~A statement setting forth voting eligibility requirements and an attestation that the applicant meets the requirements;~~

c. ~~The signature of the applicant under penalty of perjury; and~~

d. ~~No requirement of notarization or other formal authorization.~~

~~(6) Any change of address form submitted to the Division of Motor Vehicles shall serve as notification of change of address for voter registration purposes.~~

(1) The Division of Motor Vehicles and the Department of Elections shall establish an electronic voter registration program for individuals to register to vote or update their voter registration during any of the following driver's license transactions through the Division of Motor Vehicles:

a. The issuance of a commercial driver's license under Chapter 26 of Title 21, a Level 1 Learner's permit or Class D operator's license under § 2710 of Title 21, a license under § 2711 of Title 21, or an identification card under § 3102 of Title 21.

b. The renewal of a commercial driver's license under Chapter 26 of Title 21, a Level 1 Learner's permit or Class D operator's license under § 2710 of Title 21, a license under § 2711 of Title 21, or an identification card under § 3102 of Title 21.

c. The change of an individual's legal name or residence address listed on a commercial driver's license under Chapter 26 of Title 21, a Level 1 Learner's permit or Class D operator's license under § 2710 of Title 21, a license under § 2711 of Title 21, or an identification card under § 3102 of Title 21.

(2) The Division of Motor Vehicles shall obtain from an individual who engages in one of the driver's license transactions under paragraph (a)(1) of this section all of the following information:

a. Legal name.

b. Date of birth.

c. Residence address and mailing addresses, if different.

d. A notation that the individual has attested that the individual has read the notice required under paragraph (a)(3) of this section and meets all voter eligibility requirements, including United States citizenship.

e. Electronic signature.

f. Telephone number, if available.

g. E-mail address, if available.

h. Political party membership, if any.

51 i. Whether the individual affirmatively declined to become registered to vote or update the individual's
52 voter registration during the driver's license transaction with the Division of Motor Vehicles.

53 j. Any other information the Department of Elections requires by regulations promulgated under
54 paragraph (a)(8) to implement this subsection.

55 (3) The Division of Motor Vehicles shall provide notice to an individual who engages in one of the driver's
56 license transactions under paragraph (a)(1) of this section of all of the following:

57 a. The voter eligibility requirements, including United States citizenship, as provided to the Division of
58 Motor Vehicles by the Department of Elections.

59 b. The penalties for perjury and for submitting a false voter registration application.

60 c. That a declination to register to vote will remain confidential.

61 (4) The Division of Motor Vehicles shall provide the information obtained under paragraph (a)(2) of this
62 section to the Department of Elections unless an individual who engages in one of the driver's license transactions
63 under paragraph (a)(1) of this section affirmatively declines to become registered to vote or update the individual's
64 voter registration during the driver's license transaction with the Division of Motor Vehicles.

65 (5) The Division of Motor Vehicles may not provide to the Department of Elections the information obtained
66 under paragraph (a)(2) of this section for any of the following:

67 a. An individual to whom the Division issued a driving privileges card or permit under § 2711(d) of Title
68 21 or whom the Division knows is not a citizen of the United States.

69 b. An individual who engaged in one of the driver's license transactions under paragraph (a)(1) of this
70 section with the Division of Motor Vehicles before [the effective date of this Act].

71 (6) The Division of Motor Vehicles is not required to determine if an individual is a voter prior to providing
72 the information under paragraph (a)(2) of this section. Under paragraph (a)(7)b. of this section, the Department of
73 Elections is responsible for determining if an individual is a voter.

74 (7)a. Unless the individual affirmatively declines to become registered to vote or update the individual's voter
75 registration during the driver's license transaction with the Division of Motor Vehicles, the information of an
76 individual provided under paragraph (a)(2) of this section constitutes a completed voter registration application and the
77 Department of Elections shall use the information provided under paragraph (a)(2) of this section to automatically
78 register an unregistered individual who is a voter or to update the information of a registered individual who is a voter.

79 b. An individual is a voter if the Department of Elections determines that the individual meets the
80 qualifications to vote under Article V of the Delaware Constitution and § 1701 of this title.

81 (8)a. The information provided by the Division of Motor Vehicles to the Department of Elections under this
82 subchapter is confidential and exempt from disclosure under the Freedom of Information Act, Chapter 100 of Title 29,
83 until a voter is added to the list of registered voters.

84 b. Once the Department of Elections adds a voter to the list of registered voters under this subchapter, the
85 voter's information is subject to inspection as provided under § 1305 of this title unless the information is made
86 confidential under § 1303 of this title.

87 (9) The Division of Motor Vehicles and the Department of Elections may promulgate regulations to
88 implement and enforce the provisions of this subchapter as it relates to their obligations under this subchapter.

89 (10) The fact that an individual has affirmatively declined to become registered to vote or update the
90 individual's voter registration during the driver's license transaction with the Division of Motor Vehicles is
91 confidential and may not be used for any other purpose other than voter registration.

92 (11) If an individual who is ineligible to vote becomes registered to vote under this subchapter, that individual
93 is not guilty of wrongful registration under § 2302 of this title unless the individual willfully and knowingly registered
94 in violation of state law.

95 (12) If an individual who is ineligible to vote becomes registered to vote under this subchapter and votes or
96 attempts to vote in an election held after the effective date of the individual's registration, that individual is presumed
97 to have a defense under § 5104 of this title and is not guilty of fraudulent voting under § 5128 of this title unless the
98 individual willfully and knowingly registered in violation of state law.

99 (b) Registration through other state agencies.

100 (1) The Secretary or Chief Administrative Officer of each of the state agencies listed in under paragraph (b)(2)
101 of this section shall be a voter registration agency for purposes of this subchapter and shall provide the voter
102 registration services listed in paragraph (b)(3) of this section for its employees and the public it serves.

103 (2) In addition to the manner of voter registration procedure provided for under subsection (a) of this section,
104 a person an individual who is qualified to register to vote may complete a voter registration application or apply to
105 change a previous voter registration at any of the following divisions of state agencies:

106 a. Department of Health and Social Services, ~~Division of Economic Services;~~ Division of Social Services.

107 b. Department of Labor, Division of Employment and Training and Division of Vocational
108 Rehabilitation; and Rehabilitation.

109 c. ~~The Secretary or Chief Administrative Officer of each state agency not enumerated under paragraph~~
110 (b)(2)a. or b. of this section may provide voter registration services for its employees and the public it serves. Any

other state agency that the Secretary or Chief Administrative officer for that state agency selects to provide voter registration services for its employees and the public it serves.

(3) At each voter registration agency established by this subsection, all of the following services shall must be made available:

a. Distribution of mail voter registration application forms as required by subchapter IV of this chapter in conjunction with the voter registration agency's own application for the service it provides to the public, and with each of the agency's application for recertification, ~~renewal~~ renewal, or change of address form relating to the services the agency provides, unless the applicant individual, in writing, declines to register to vote; to vote. To the greatest extent practicable, the voter registration agencies' forms shall must incorporate a means by which a person an individual who completes the forms may decline, in writing, to register to vote.

b. Employees of the ~~registration agencies~~ voter registration agency who are trained to provide nonpartisan voter registration assistance, and who shall routinely inquire of members of the public individuals served by the agency whether they wish to register to vote and, if requested, assist such members of the public individuals in completing the registration forms. ~~Any such~~ A voter registration agency employee shall provide to each applicant individual who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the office agency with regard to the completion of its own forms. ~~An~~ A voter registration agency employee who provides such assistance shall not may not do any of the following:

1. Seek to influence an applicant's political preference or party ~~registration;~~ registration.
2. Display any such political preference or party ~~allegiance;~~ or allegiance.
3. Make any statement to an applicant to take any action, the purpose or effect of which is to discourage the applicant from registering to vote.

c. Acceptance of completed voter registration applications for transmittal to the appropriate office of the Department of ~~Elections;~~ Elections.

1. ~~No information~~ Information relating to a declination to register to vote in connection with an application made at a ~~registering~~ voter registration agency may not be used for any purpose other than voter registration.

2. ~~Registering~~ Voter registration agencies shall do all of the following:

- (i) A. Inform all applicants for voter registration of voter eligibility ~~requirements;~~ requirements.

(ii) B. Inform all applicants for voter registration of the penalties provided under law for submission of a false voter registration ~~application~~; and application.

(iii) C. Ensure that the identity of the voter registration agency through which any particular voter is registered is not disclosed to the public.

(4) Notwithstanding the provisions of paragraph (b)(3) of this section, a voter registration agency may use an electronic tool developed by the State Election Commissioner to register clients to vote and to update their voter registration records.

Section 2. Amend § 2051, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2051. Appointment of voter registration coordinator — Coordination among voter registration agencies, Department of Elections and Department of Technology and Information.

(a) The State Election Commissioner shall be the statewide coordinator for agency based registration.

(b) Each of the voter registration agencies identified in this subchapter shall appoint an existing employee to implement and oversee the training necessary to provide nonpartisan voter registration, and to collect and enter on each registration application all information required to properly identify the applicant, including a complete location of residence. The employee designated to assist registrants at each voter registration agency shall further ensure that each voter registration application to be transmitted to the appropriate Department of Elections contains both the correct identification of the voter registration agency office, the origin and signature of the employee of the voter registration agency office who prepared or assisted in preparing the application and who witnessed the applicant's signature.

(c) The statewide coordinator shall ensure that all applicable intake and application forms used by each voter registration agency shall be the same forms used by the Department of Elections.

(d) The statewide coordinator shall provide properly trained personnel to transmit a sufficient number of appropriate applications to each voter registration agency and to transmit completed voter registration applications to the Department of Elections within 3 business days after completion ~~to the Department of Elections~~. This requirement may be satisfied by putting the completed applications into the State mail within 3 business days.

(e) The statewide coordinator shall provide procedural assistance to each voter registration agency for appropriate training of the employee designated to assist in voter registration.

(f) The statewide coordinator shall institute appropriate procedures to facilitate implementation of the provisions of this subchapter and to ensure coordination of those procedures among the Department of Elections, the Department of Technology and ~~Information~~ Information, and the voter registration agencies.

170 Section 3. Amend § 2052, Title 15 of the Delaware Code by making deletions as shown by strike through and
171 insertions as shown by underline as follows:

172 § 2052 Statistical compilations.

173 The Department of Elections shall collect, ~~maintain~~ maintain, and publish statistical data reflecting the number of
174 electors enfranchised ~~pursuant to~~ under this subchapter by each of the voter registration agencies ~~created herein~~ established
175 under this subchapter.

176 Section 4. Amend § 2053, Title 15 of the Delaware Code by making deletions as shown by strike through and
177 insertions as shown by underline as follows:

178 § 2053. ~~Effective date;~~ title Short title.

179 ~~The provisions of this subchapter VII shall take effect on January 30, 1994, and~~ This subchapter shall be known
180 and may be cited as the “Agency Based Registration Act.”

SYNOPSIS

Section 1 of this Act updates Delaware’s existing Motor Voter Program to adopt an automatic voter registration process. Currently, when Delawareans apply for, renew, or replace a driver’s license or identification card, they must choose to register to vote, update an existing registration, or decline registration. This bill would require eligible voters to instead “opt out” of having their information automatically shared with the Delaware Department of Elections for registration. Six states and the District of Columbia have enacted similar opt out policies.

A portion of Section 1 (specifically, § 2050(b), Title 15) and Sections 2, 3, and 4 of this Act make technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual with no intent to change the substance of these sections.