

# VIRGINIA ACTS OF ASSEMBLY -- 2013 SESSION

## CHAPTER 686

*An Act to amend and reenact §§ 24.2-404, 24.2-427, and 46.2-328.1 of the Code of Virginia, relating to registered voters; citizenship; SAVE Program.*

[S 1077]

Approved March 21, 2013

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 24.2-404, 24.2-427, and 46.2-328.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 24.2-404. Duties of State Board.**

A. The State Board shall provide for the continuing operation and maintenance of a central recordkeeping system, the Virginia Voter Registration System, for all voters registered in the Commonwealth.

In order to operate and maintain the system, the Board shall:

1. Maintain a complete, separate, and accurate record of all registered voters in the Commonwealth.
2. Require the general registrars to enter the names of all registered voters into the system and to change or correct registration records as necessary.

3. Provide to each general registrar, voter registration cards for newly registered voters and for notice to registered voters on the system of changes and corrections in their registration records and polling places.

4. Require the general registrars to delete from the record of registered voters the name of any voter who (i) is deceased, (ii) is no longer qualified to vote in the county or city where he is registered due to removal of his residence, (iii) has been convicted of a felony, (iv) has been adjudicated incapacitated, (v) is known not to be a United States citizen by reason of reports from the Department of Motor Vehicles pursuant to § 24.2-410.1 *or from the State Board based on information received from the Systematic Alien Verification for Entitlements Program (SAVE Program) pursuant to subsection E*, or (vi) is otherwise no longer qualified to vote as may be provided by law. Such action shall be taken no later than 30 days after notification from the Board. The Board shall promptly provide the information referred to in this subdivision, upon receiving it, to general registrars.

5. Retain on the system for four years a separate record for registered voters whose names have been deleted, with the reason for deletion.

6. Retain on the system permanently a separate record for information received regarding deaths, felony convictions, and adjudications of incapacity pursuant to §§ 24.2-408 through 24.2-410.

7. Provide to each general registrar, at least 16 days prior to a general or primary election and three days prior to a special election, an alphabetical list of all registered voters in each precinct or portion of a precinct in which the election is being held in the county, city, or town. These precinct lists shall be used as the official lists of qualified voters and shall constitute the pollbooks. The State Board shall provide instructions for the division of the pollbooks and precinct lists into sections to accommodate the efficient processing of voter lines at the polls. Prior to any general, primary, or special election, the State Board shall provide any general registrar, upon his request, with a separate electronic list of all registered voters in the registrar's county or city. If electronic pollbooks are used in the locality or electronic voter registration inquiry devices are used in precincts in the locality, the State Board shall provide a regional or statewide list of registered voters to the general registrar of the locality. The State Board shall determine whether regional or statewide data is provided. Neither the pollbook nor the regional or statewide list of registered voters shall include the day and month of birth of the voter, but shall include the voter's year of birth.

8. Acquire by purchase, lease, or contract equipment necessary to execute the duties of the Board.

9. Use any source of information that may assist in carrying out the purposes of this section. All agencies of the Commonwealth shall cooperate with the State Board in procuring and exchanging identification information for the purpose of maintaining the voter registration system. The State Board may share any information that it receives from another agency of the Commonwealth with any Chief Election Officer of another state for the maintenance of the voter registration system.

10. Reprint and impose a reasonable charge for the sale of any part of Title 24.2, lists of precincts and polling places, statements of election results by precinct, and any other items required of the State Board by law. Receipts from such sales shall be credited to the Board for reimbursement of printing expenses.

B. The State Board shall be authorized to provide for the production, distribution, and receipt of information and lists through the Virginia Voter Registration System by any appropriate means including, but not limited to, paper and electronic means.

C. The State Board shall institute procedures to ensure that each requirement of this section is fulfilled. As part of its procedures, the State Board shall provide that the general registrar shall mail notice of any cancellation pursuant to clause (v) of subdivision A 4 to the person whose registration is cancelled.

D. The State Board shall promulgate rules and regulations to ensure the uniform application of the law for determining a person's residence.

*E. The State Board shall apply to participate in the Systematic Alien Verification for Entitlements Program (SAVE Program) operated by U.S. Citizenship and Immigration Services of the U.S. Department of Homeland Security for the purposes of verifying that voters listed in the Virginia voter registration system are United States citizens. Upon approval of the application, the State Board shall enter into any required memorandum of agreement with U.S. Citizenship and Immigration Services. The State Board shall promulgate rules and regulations governing the use of the immigration status and citizenship status information received from the SAVE Program.*

**§ 24.2-427. Cancellation of registration by voter or for persons known to be deceased or disqualified to vote.**

A. Any registered voter may cancel his registration and have his name removed from the central registration records by signing an authorization for cancellation and mailing or otherwise submitting the signed authorization to the general registrar. When submitted by any means other than when notarized or in person, such cancellation must be made at least 22 days prior to an election in order to be valid in that election. The general registrar shall acknowledge receipt of the authorization and advise the voter in person or by first-class mail that his registration has been canceled within 10 days of receipt of such authorization.

B. The general registrar shall cancel the registration of (i) all persons known by him to be deceased or disqualified to vote by reason of a felony conviction or adjudication of incapacity; (ii) all persons known by him not to be United States citizens by reason of reports from the Department of Motor Vehicles pursuant to § 24.2-410.1 *or from the State Board based on information received from the Systematic Alien Verification for Entitlements Program (SAVE Program) pursuant to subsection E of § 24.2-404* and in accordance with the requirements of subsection B1; (iii) all persons for whom a notice has been received, signed by the voter, or from the registration official of another jurisdiction that the voter has moved from the Commonwealth; and (iv) all persons for whom a notice has been received, signed by the voter, or from the registration official of another jurisdiction that the voter has registered to vote outside the Commonwealth, subsequent to his registration in Virginia. The notice received in clauses (iii) and (iv) shall be considered as a written request from the voter to have his registration cancelled. A voter's registration may be cancelled at any time during the year in which the general registrar discovers that the person is no longer entitled to be registered. The general registrar shall mail notice of any cancellation to the person whose registration is cancelled.

B1. The general registrar shall mail notice promptly to all persons known by him not to be United States citizens by reason of a report from the Department of Motor Vehicles pursuant to § 24.2-410.1 *or from the State Board based on information received from the Systematic Alien Verification for Entitlements Program (SAVE Program) pursuant to subsection E of § 24.2-404* prior to cancelling their registrations. The notice shall inform the person of the report from the Department of Motor Vehicles *or from the State Board* and allow the person to submit his sworn statement that he is a United States citizen within 14 days of the date that the notice was mailed. The general registrar shall cancel the registrations of such persons who do not respond within 14 days to the notice that they have been reported not to be United States citizens.

B2. The general registrar shall (i) process the State Board's most recent list of persons convicted of felonies within 21 to 14 days before any primary or general election, (ii) cancel the registration of any registered voter shown to have been convicted of a felony who has not provided evidence that his right to vote has been restored, and (iii) send prompt notice to the person of the cancellation of his registration. If it appears that any registered voter has made a false statement on his registration application with respect to his having been convicted of a felony, the general registrar shall report the fact to the attorney for the Commonwealth for prosecution under § 24.2-1016 for a false statement made on his registration application.

C. The general registrar may cancel the registration of any person for whom a notice has been submitted to the Department of Motor Vehicles in accordance with the Driver License Compact set out in Article 18 (§ 46.2-483 et seq.) of Chapter 3 of Title 46.2 and forwarded to the general registrar, that the voter has moved from the Commonwealth; provided that the registrar shall mail notice of such cancellation to the person at both his new address, as reported to the Department of Motor Vehicles, and the address at which he had most recently been registered in Virginia. No general registrar may cancel registrations under this authority while the registration records are closed pursuant to § 24.2-416. No registrar may cancel the registration under this authority of any person entitled to register under the provisions of subsection A of § 24.2-420.1, and shall reinstate the registration of any otherwise qualified voter covered by subsection A of § 24.2-420.1 who applies to vote within four years of the date of cancellation.

**§ 46.2-328.1. Licenses, permits and special identification cards to be issued only to United States citizens, legal permanent resident aliens, or holders of valid unexpired nonimmigrant visas; exceptions; renewal, duplication, or reissuance.**

A. Notwithstanding any other provision of this title, except as provided in subsection G of § 46.2-345, the Department shall not issue an original license, permit, or special identification card to any applicant who has not presented to the Department, with the application, valid documentary evidence that the applicant is either (i) a citizen of the United States, (ii) a legal permanent resident of the United States, or (iii) a conditional resident alien of the United States.

B. Notwithstanding the provisions of subsection A and the provisions of §§ 46.2-330 and 46.2-345, an applicant who presents in person valid documentary evidence of (i) a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States, (ii) a pending or approved application for asylum in the United States, (iii) entry into the United States in refugee status, (iv) a pending or approved application for temporary protected status in the United States, (v) approved deferred action status, or (vi) a pending application for adjustment of status to legal permanent residence status or conditional resident status, may be issued a temporary license, permit, or special identification card. Such temporary license, permit, or special identification card shall be valid only during the period of time of the applicant's authorized stay in the United States or if there is no definite end to the period of authorized stay a period of one year. No license, permit, or special identification card shall be issued if an applicant's authorized stay in the United States is less than 30 days from the date of application. Any temporary license, permit, or special identification card issued pursuant to this subsection shall clearly indicate that it is temporary and shall state the date that it expires. Such a temporary license, permit or identification card may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary license, permit or special identification has been extended by the United States Immigration and Naturalization Service or the Bureau of Citizenship and Immigration Services of the Department of Homeland Security.

C. Any license or special identification card for which an application has been made for renewal, duplication or reissuance shall be presumed to have been issued in accordance with the provisions of subsection A, provided that, at the time the application is made, (i) the license or special identification card has not expired or been cancelled, suspended or revoked or (ii) the license or special identification card has been canceled or suspended as a result of the applicant having been placed under medical review by the Department pursuant to § 46.2-322. The requirements of subsection A shall apply, however, to a renewal, duplication or reissuance if the Department is notified by a local, state or federal government agency that the individual seeking such renewal, duplication or reissuance is neither a citizen of the United States nor legally in the United States.

D. The Department shall cancel any license, permit, or special identification card that it has issued to an individual if it is notified by a federal government agency that the individual is neither a citizen of the United States nor legally present in the United States.

*E. For any applicant who presents a document pursuant to this section proving legal presence other than citizenship, the Department shall record and provide to the State Board of Elections monthly the applicant's document number, if any, issued by an agency or court of the United States government.*