

Elections, Absent Voters. Electors, Absent Voters' Law. Voters, Absent When May Vote. Absent Voters' Law, Construed.

The procedure to be followed by voters under Chapter 110, Laws of 1915, Absent Voters' Law, explained.

October 13, 1916.

Mr. John A. Curry,
City Editor, Great Falls Tribune,
Great Falls, Montana.

Dear Sir:

I am in receipt of your recent letter wherein you request me to prepare for you a statement covering the rights of voters under the absent voter's law, and in reply thereto, I beg to advise as follows:

The law to which you refer is found in Chapter 110, Laws of 1915, and it makes provision for enabling any duly registered voter who would be entitled to vote if personally present at his precinct on election day, to vote by mail.

At any time within thirty days preceding the election, the necessary steps may be taken by the voter to secure the benefits conferred by this law. The first step is the application for the ballot. This may be done in person or by mail. If done in person, the voter should appear before the county clerk and recorder of his county accompanied by two qualified electors of his precinct. The applicant will then sign his application for a ballot upon a form supplied by the county clerk, and the two electors with him will then make affidavit as to the applicant's identity. The applicant must then pay a fee of thirty cents. If application be made by mail, it is only necessary for the absent voter to write to the county clerk of his county, requesting a blank application for a ballot. When he receives it, he will fill in and sign it, enclose it in an envelope with thirty cents, and mail it to some friend who is an elector from the same precinct, take the application to the county clerk and there make the necessary affidavit as to the applicant's identity; or, if inconvenient for these electors to appear before the county clerk, then before any officer in the county authorized to administer oaths.

As soon as the official ballots are printed, the county clerk will send one to the designated address of the absent voter who has made application therefor as outlined above. When the absent voter receives it, he must appear before an officer authorized by law to administer oaths, and who has an official seal, and may do so at any place within the State of Montana, and in such officer's presence, and in the presence of no other person, and in such manner that the officer cannot see the vote, must mark his ballot in the usual manner; without detaching the stub, the ballot is then folded in the usual manner by the voter, and sealed in an envelope furnished for the purpose, and when sealed the voter makes affidavit in conformity with the form provided for the purpose printed on the reverse side of the envelope, and when

this is done, the operation, in so far as the absent voter is concerned, is completed when he deposits the envelope containing the ballot in the mails.

The county clerk when he receives the envelope containing the marked ballot, deposits it together with the application for the ballot previously made by the absent voter, in an envelope and later delivers it to the Judges of Election, who on the day of election, open the envelope, detach the stub from the ballot, make the proper entries in the precinct register and poll book, and deposit the ballot in the ballot box in the same manner as though the voter were personally present.

In case any voter who has taken advantage of this Act does not leave his county, or is present in his county on election day in time to allow him to go to the polls, he must do so under penalty of being guilty of misdemeanor.

There is some doubt as to whether a voter may legally vote if without the jurisdiction of the State of Montana at the time he marks his ballot, by reason of the peculiar language of Section 7 of the Act, which provides in part as follows:

“Such voter shall make and subscribe the said affidavit before an officer authorized by law to administer oaths and who has an official seal, and may do so at any place in the State of Montana.”

In as much as this section has never been judicially construed, I do not care to comment upon it further than to call it to your attention.

Trusting the foregoing statement is sufficiently comprehensive to give you the information desired, I am,

Yours very truly,

J. B. POINDEXTER,
Attorney General.