

HOUSE No. 568

The Commonwealth of Massachusetts

PRESENTED BY:

James M. Cantwell

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act allowing no excuse absentee voting and establishing voting by early ballot.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|--------------------------|---------------------|-------------|
| <i>James M. Cantwell</i> | <i>4th Plymouth</i> | |
| <i>Josh S. Cutler</i> | <i>6th Plymouth</i> | |

HOUSE No. 568

By Mr. Cantwell of Marshfield, a petition (accompanied by bill, House, No. 568) of James M. Cantwell and Josh S. Cutler relative to absentee and early voting. Election Laws.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act allowing no excuse absentee voting and establishing voting by early ballot.

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

1 SECTION 1. The first paragraph of section 34A of chapter 53 of the General Laws, as
2 appearing in the 2010 Official Edition, is hereby amended by inserting after clause (c) the
3 following clause:-

4 (d) Official early voting ballots, similar in all respects to the official ballot to be used in
5 such primary, on paper similar in color to the official ballot of the respective parties. Instructions
6 for the use of such early ballots may be printed on the back of the ballots.

7 SECTION 2. Section 37A of chapter 53 of the General Laws, as appearing in the 2010
8 Official Edition, is hereby amended by inserting after the word “absentee,” in line 9, the
9 following words:- “or early”

10 SECTION 3. Section 37A of chapter 53 is hereby further amended by inserting after the
11 first paragraph the following paragraph:-

12 A city or town clerk shall not supply any voter with the early ballot of more than one
13 party at any one primary. If an enrolled voter requests the early ballot of a party other than the
14 party in which the voter is enrolled, the clerk shall supply the voter with the early ballot of the
15 party in which the voter is enrolled. If the voter is unenrolled, the voter shall inform the clerk of
16 the party in whose primary the voter desires to vote.

17 SECTION 4. Section 37A of chapter 53 of the General Laws is hereby further amended
18 by inserting after the word “absentee,” in line 11, the following words:- “or early”

19 SECTION 5. Section 37A of chapter 53 of the General Laws is hereby further amended
20 by inserting after the word “absentee,” in line 12, the following words:- “or early”

21 SECTION 6. Section 37A of chapter 53 of the General Laws is hereby further amended
22 by inserting after the word “absentee,” in line 14, the following words:- “or early”

23 SECTION 7. Chapter 54 of the General Laws is hereby amended by striking out section
24 86, as appearing in the 2010 Official Edition, and inserting in place thereof the following section:

25 -

26 Section 86. Any voter whose application for an official absent voting ballot has been filed
27 with the city or town clerk as provided in section eighty-nine, and certified under section ninety-
28 one, may vote in accordance with sections eighty-seven to one hundred and three, inclusive. A
29 voter who will be unable by reason of permanent physical disability to cast his vote in person at
30 the polling place may file once with the city or town clerk a certificate executed by a registered
31 physician who is personally acquainted with the voter and aware of his permanent physical
32 disability, stating that it is reasonably certain because of permanent physical disability that the
33 voter will be unable to cast his vote in person at the polling place on the day of the election. The
34 city or town clerk shall maintain a list of such permanently disabled voters and such voters shall
35 not be required to file any such certification thereafter with their applications for an absent
36 voting ballot. Not later than twenty-eight days before every primary, preliminary election or
37 election, the city or town clerk shall send to each voter whose name appears on the permanently
38 disabled voters’ list an application for an absent voting ballot, which application said clerk shall
39 complete so far as possible except for the voter’s signature.

40 SECTION 8. Chapter 54 of the General Laws is hereby further amended by inserting
41 after section 86 the following section:-

42 Section 86A. Early Voters

43 Any voter may, during the period beginning on the third Monday preceding an election
44 and ending on the Friday preceding an election, make a personal appearance during normal
45 business hours at the town or city clerk whose jurisdiction contains the voter’s assigned election
46 precinct and request to vote by early ballot. A voter who makes a personal appearance to vote
47 before election day shall be given an early ballot, and shall not be given an absent ballot. If the
48 third Monday preceding an election is a holiday, a voter may request to vote by early ballot
49 beginning on the second Tuesday preceding an election.

50 Voting by early ballot shall be carried out consistent with sections eighty seven, eighty
51 eight, and one hundred and one to one hundred and three Q, inclusive.

52 The Secretary of State shall adopt regulations and guidelines consistent with sections
53 eighty seven, eighty eight, and one hundred and one to one hundred and three Q, inclusive for the
54 conduct of voting by early ballot.

55 SECTION 9. Chapter 54 of the General Laws is hereby amended by striking out section
56 87, as appearing in the 2010 Official Edition, and inserting in place thereof the following
57 section:-

58 Section 87. Preparation of absent and early voting ballots, envelopes, instructions

59 Prior to each biennial state election the state secretary shall prepare in such quantities as
60 he may deem necessary the following papers:

61 (a) Official absent voting ballots, similar in all respects to the official ballot to be used at
62 such election, except that they shall be printed on paper differing in color from that used for
63 official or specimen or early ballots.

64 (b) Official early voting ballots, similar in all respects to the official ballot to be used at
65 such election, except that they shall be printed on paper differing in color from that used for
66 official or specimen or absent ballots.

67 (c) Envelopes of sufficient size to contain the ballots specified in subsections (a) and (b)
68 bearing on their reverse the voter's affidavit of compliance with the requirements of section
69 ninety-two. Each envelope shall bear the words "absent voting ballot" or "early voting ballot" as
70 applicable.

71 (d) Envelopes of size sufficient to contain the absent voting envelope identified in
72 subsection (c), addressed to the clerks of the several cities and towns within the commonwealth,
73 upon which shall be printed blank spaces for the name, address and voting place of the sender,
74 which shall be filled in by the city or town clerk prior to the mailing of such envelopes.

75 The state secretary shall furnish such explanatory matter and instructions as he may deem
76 appropriate to carry into effect the purposes of sections eighty-six to one hundred and three,
77 inclusive.

78 SECTION 10. Chapter 54 of the General Laws is hereby further amended by striking out
79 section 91, as so appearing, and inserting in place thereof the following section: -

80 Section 91. When an application for an official absent voting ballot is received by the
81 clerk of a city or town, it shall be transmitted by him to the registrars, who shall examine it and,
82 if they believe the signature thereon to be genuine and the person executing the signature to be a
83 duly registered voter or a family member of a duly registered voter, shall execute the certificate
84 thereon and return the application to said clerk. The clerk shall cause to be placed on the voting
85 lists prepared as required by section sixty of chapter fifty-one, opposite the name of each voter
86 on whose application such certificate has been so executed, the letters in capitals A. V. If the
87 registrars find the person signing the application not to be a duly registered voter, they shall send
88 him written notice to that effect and shall preserve the application during the time fixed by law
89 for the preservation of ballots cast in the coming election, after which time said application shall

90 be destroyed. The clerk shall prepare lists, arranged by voting precincts, of the names and
91 addresses of all voters on whose applications for absent voting ballots the certificate has been
92 executed as provided in this section, and shall post copies of such lists for public inspection. An
93 applicant for an absent voting ballot who has been furnished a certificate of supplementary
94 registration, as authorized by section fifty-one of chapter fifty-one, shall submit such certificate
95 with his application, and the clerk shall cause to be placed on such certificate opposite the name
96 of the applicant the letters in capitals A. V. Every such certificate shall be securely affixed to the
97 voting lists required by section sixty of chapter fifty-one to be transmitted to the polling place for
98 the precinct where such applicant claims the right to vote and shall be considered a part thereof.

99 Sections fifty-nine and fifty-nine A of chapter fifty-one shall apply to applications for
100 absent voting ballots, but the certificate mentioned in section fifty-nine shall be issued by the city
101 or town clerk.

102 SECTION 11. Section 92 of chapter 54 of the General Laws, as appearing in the 2010
103 Official Edition, is hereby amended by striking out the second sentence of clause (a), as so
104 appearing.

105 SECTION 12. Chapter 54 of the General Laws is hereby further amended by striking out
106 section 96, as so appearing, and inserting in place thereof the following section: -

107 Section 96. All ballots transmitted under any provision of sections eighty-six to one
108 hundred and three, inclusive, shall be subject to challenge when and as cast for non-compliance
109 with any provision of sections eighty-six to one hundred and three, inclusive, or for any other
110 reason allowed by law, and if challenged shall be disposed of in accordance with section eighty-
111 five, except that so much of said section as involves the administering of an oath shall not apply
112 thereto, and the writing of the name and address of the voter on the ballot shall be performed by
113 the officer charged with depositing the ballot in the ballot box.

114 SECTION 13. Chapter 54 of the General Laws is hereby further amended by inserting
115 after section 100 the following section:-

116 Section 101. Early Ballot Procedures

117 When a voter makes a personal appearance to vote by early ballot the clerk shall request
118 suitable written identification consistent with sections seventy six and seventy six B. If the clerk
119 verifies the identity of the voter and determines that the voter is eligible to vote, the clerk shall
120 give the voter one early ballot and one early ballot envelope. No voter shall be given more than
121 one early ballot or envelope at a time. An early ballot cannot be mailed to a voter, even if the
122 voter makes a personal appearance and requests an early ballot be mailed.

123 A voter shall mark his or her early ballot in the presence of no other person, except as
124 provided in section seventy nine. The voter shall mark his or her early ballot without leaving the

125 town or city clerk's office. The voter shall then enclose and seal the ballot in the envelope
126 provided and return the ballot and sealed envelope to the clerk.

127 The provisions of section fifty-nine of chapter fifty-one, relative to certificates and voting
128 procedure, shall apply to early ballots.

129 The provisions of section seventy six C, relating to voting by provisional ballot, shall
130 apply to early ballots.

131 The provisions of section eighty-one, relative to spoiled ballots, shall apply to early
132 ballots.

133 SECTION 14. Chapter 54 of the General Laws is hereby further amended by inserting
134 after section 101 the following section:-

135 Section 101A. Challenges

136 All early ballots shall be subject to challenge when and as cast for non-compliance with
137 the sections eighty six A, eighty seven, eighty eight, and one hundred and one to one hundred
138 and three Q, inclusive, or for any other reason allowed by law, and if challenged shall be
139 disposed of in accordance with section eighty-five.

140 SECTION 15. Chapter 54 of the General Laws is hereby further amended by inserting
141 after section 101A the following section:-

142 Section 101B. Record of Early Ballots

143 The clerk shall cause to be placed on the voting lists prepared as required by section sixty
144 of chapter fifty-one, opposite the name of each voter who made a personal appearance and voted
145 by early ballot, the letters in capitals E.B. No voter who voted by early ballot, and opposite
146 whose name on the voting lists the letters E.B. have been placed, shall be permitted to vote on
147 election day.

148 SECTION 16. Chapter 54 of the General Laws is hereby further amended by inserting
149 after section 101B the following section:-

150 Section 101C. Counting of Early Ballots

151 Early ballots shall not be counted until the close of polls on election day.

152 The city or town clerk, on the day of the election, but no later than one hour after the hour
153 for closing of the polls, shall transmit all envelopes purporting to contain official early voting
154 ballots to the election officers in the several precincts where the voters whose names appear on
155 such envelopes assert the right to vote. The warden or deputy shall forthwith, after receipt of any
156 such envelopes, distinctly announce the name and residence of each voter and check his name on

157 the voting lists referred to in section sixty of chapter fifty-one, if it has not already been so
158 checked. He shall open the envelopes in which the ballot is enclosed in such a manner as not to
159 damage or destroy the ballot, take the ballot therefrom without opening it or permitting it to be
160 examined and deposit in the ballot box. All envelopes referred to in this section shall be retained
161 with the ballots cast at the election and shall be preserved and destroyed in the manner provided
162 by law for the retention, preservation or destruction of official ballots.

163 In the event that a voter who voted by early ballot dies after voting but before election
164 day, the voter's early ballot shall be valid and shall be counted.

165 SECTION 17. Section 102 of chapter 54 of the General Laws, as appearing in the 2010
166 Official Edition, is hereby amended by inserting after the word "absent" the following words:-
167 "and early."

168 SECTION 18. Section 103 of chapter 54 of the General Laws, as appearing in the 2010
169 Official Edition, is hereby amended by inserting after the word "absent," in line 3 the following
170 words:- "or early."

171 SECTION 19. Chapter 54 of the General Laws is hereby amended by striking out section
172 103Q, as appearing in the 2010 Official Edition, and inserting in place thereof the following
173 section: -

174 Section 103Q. No mere informality in the manner or carrying out any provision of law
175 affecting voting by absent or early voting ballot at an election shall invalidate such election or
176 constitute sufficient cause for the rejection of the returns thereof, and such provisions shall be
177 construed liberally to effectuate their purposes.

178 SECTION 20. Section 21 of chapter 56 of the General Laws, as appearing in the 2010
179 Official Edition, is hereby amended by inserting after the word "absent," in line 1, the following
180 words:- "or early"

181 SECTION 21. Section 27A of chapter 56 is hereby further amended by inserting after the
182 word "absent," in line 1, the following words:- or early

183 SECTION 22. Section 27A of chapter 56 of the General Laws is hereby further amended
184 by inserting after the word "absent," in line 2, the following words:- "or early"

185 SECTION 23. Chapter 56 of the General Laws, as appearing in the 2010 Official
186 Edition, is hereby amended by inserting after section 27A the following section:-

187 Section 27B. Unlawful distribution of early voter ballots

188 Whoever, at any election in which early voting is permitted, knowingly and willfully
189 delivers an early voter ballot to a voter or other person in any other manner than as provided for

190 in section eighty-six A and one-hundred and one shall be punished by a fine of not more than ten
191 thousand dollars and by imprisonment for not more than five years.