

## CHAPTER 164

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**ELECTIONS**


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**SENATE BILL 03-102**

BY SENATOR(S) Arnold, Andrews, Cairns, Chlouber, Dyer, Entz, Hillman, Johnson S., Jones, Lamborn, May R., McElhany, Nichol, Owen, and Teck;  
also REPRESENTATIVE(S) White, Clapp, Decker, Fairbank, Harvey, Hefley, Lundberg, Rhodes, Sinclair, Smith, Spence, and Stengel.

**AN ACT****CONCERNING VOTER IDENTIFICATION.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 1-1-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**1-1-104. Definitions.** As used in this code, unless the context otherwise requires:

(19.5) (a) "IDENTIFICATION" MEANS:

(I) A VALID DRIVER'S LICENSE;

(II) A VALID STATE-ISSUED IDENTIFICATION CARD;

(III) A VALID UNITED STATES PASSPORT;

(IV) A VALID EMPLOYEE IDENTIFICATION CARD WITH A PHOTOGRAPH OF THE ELIGIBLE ELECTOR ISSUED BY ANY BRANCH, DEPARTMENT, AGENCY, OR ENTITY OF THE UNITED STATES GOVERNMENT OR OF THIS STATE, OR BY ANY COUNTY, MUNICIPALITY, BOARD, AUTHORITY, OR OTHER POLITICAL SUBDIVISION OF THIS STATE;

(V) A VALID PILOT'S LICENSE WITH A PHOTOGRAPH OF THE ELIGIBLE ELECTOR ISSUED BY THE FEDERAL AVIATION ADMINISTRATION OR OTHER AUTHORIZED AGENCY OF THE UNITED STATES; OR

(VI) A VALID UNITED STATES MILITARY IDENTIFICATION CARD WITH A

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

## PHOTOGRAPH OF THE ELIGIBLE ELECTOR.

(b) ANY FORM OF IDENTIFICATION INDICATED IN PARAGRAPH (a) OF THIS SUBSECTION (19.5) THAT SHOWS THE ADDRESS OF THE ELIGIBLE ELECTOR SHALL BE CONSIDERED IDENTIFICATION ONLY IF THE ADDRESS IS IN THE STATE OF COLORADO.

**SECTION 2.** 1-7-110 (1) and (2), Colorado Revised Statutes, are amended, and the said 1-7-110 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**1-7-110. Preparing to vote.** (1) EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION, any eligible elector desiring to vote shall SHOW HIS OR HER IDENTIFICATION AS DEFINED IN SECTION 1-1-104 (19.5), write his or her name and address on the signature card, and give ~~it~~ THE SIGNATURE CARD to one of the election judges, who shall clearly and audibly announce the name in a loud and distinct tone of voice. An eligible elector who is unable to write may request assistance from one of the election judges, who shall also sign the signature card and witness the eligible elector's mark. The signature card shall provide: "I, ....., who reside at ....., am an eligible elector of this precinct or district and desire to vote at this ..... election.  
Date ....."

(2) If the ELIGIBLE ELECTOR SHOWS IDENTIFICATION AND THE ELECTOR'S name is found on the registration list or, where applicable, the property owner's list by the election judge in charge, the elector's name shall be repeated. The judge in charge of the pollbook or list shall then enter the eligible elector's name, and the eligible elector shall be allowed to enter the immediate voting area. Besides the election officials, no more than four electors more than the number of voting booths or voting machines shall be allowed within the immediate voting area at one time.

(4) AN ELIGIBLE ELECTOR WHO IS UNABLE TO PRODUCE IDENTIFICATION MAY CAST A PROVISIONAL BALLOT IN ACCORDANCE WITH PART 3 OF ARTICLE 9 OF THIS TITLE.

**SECTION 3.** 1-7-201 (1), Colorado Revised Statutes, is amended to read:

**1-7-201. Voting at primary election.** (1) Any registered elector who has declared a major political party affiliation and who desires to vote for candidates of that party at a primary election shall SHOW IDENTIFICATION, AS DEFINED IN SECTION 1-1-104 (19.5) AND write his or her name and address on a form available at the polling place and give the form to one of the election judges, who shall clearly and audibly announce the name.

**SECTION 4.** 1-7.5-103 (5) and (7), Colorado Revised Statutes, are amended to read:

**1-7.5-103. Definitions.** As used in this article, unless the context otherwise requires:

(5) "Mail ballot packet" means the packet of information provided by the designated election official to eligible electors in the mail ballot election. The packet includes the ballot, instructions for completing the ballot, a secrecy envelope, and a

return ~~verification~~ envelope.

(7) "Return ~~verification~~ envelope" means an envelope that ~~contains~~ IS PRINTED WITH SPACES FOR the name AND address ~~and birth date~~ of, AND A SELF-AFFIRMATION TO BE SIGNED BY, an eligible elector voting in a mail ballot election, that contains a secrecy envelope and ballot for the elector, and that is designed to allow election officials, upon examining the signature, name, AND address ~~and birth date that appear~~ on the outside of the envelope, to determine whether the enclosed ballot is being submitted by an eligible elector who has not previously voted in that particular election.

**SECTION 5.** 1-7.5-106 (1) (a), Colorado Revised Statutes, is amended to read:

**1-7.5-106. Secretary of state - duties and powers.** (1) In addition to any other duties prescribed by law, the secretary of state, with a advice from election officials of the several political subdivisions, shall:

(a) Prescribe the form of materials to be used in the conduct of mail ballot elections; except that all mail ballot packets shall include a ballot, instructions for completing the ballot, a secrecy envelope, and a ~~return-verification~~ RETURN envelope;

**SECTION 6.** 1-7.5-107 (3) (b.5), (4), (5), and (6), Colorado Revised Statutes, are amended to read:

**1-7.5-107. Procedures for conducting mail ballot election.** (3) (b.5) (I) The ~~return-verification~~ RETURN envelope shall have printed on it a self-affirmation substantially in the following form:

"I state under penalty of perjury that I am an eligible elector; that my SIGNATURE, name, AND address ~~and birth date~~ are as shown on this envelope; that I have not and will not cast any vote in this election except by the enclosed ballot; and that my ballot is enclosed in accord with the provisions of the "Uniform Election Code of 1992".

.....	.....
Date	Signature of voter"

(II) The signing of the self-affirmation on the ~~return-verification~~ RETURN envelope shall constitute an affirmation by the ~~voter~~ ELIGIBLE ELECTOR, under penalty of perjury, that the facts stated in the self-affirmation are true. IF THE ELIGIBLE ELECTOR IS UNABLE TO SIGN, THE ELIGIBLE ELECTOR MAY AFFIRM BY MAKING A MARK ON THE SELF-AFFIRMATION, WITH OR WITHOUT ASSISTANCE, WITNESSED BY ANOTHER PERSON.

(4) (a) Upon receipt of a ballot, the eligible elector shall mark the ballot, sign and complete the ~~return-verification~~ SELF-AFFIRMATION ON THE RETURN envelope, ENCLOSE IDENTIFICATION IF REQUIRED BY PARAGRAPH (c) OF THIS SUBSECTION (4), and comply with the instructions provided with the ballot.

(b) The eligible elector may return the marked ballot to the designated election official by United States mail or by depositing the ballot at the office of the official or any place designated by the official. The ballot must be returned in the ~~return-verification~~ RETURN envelope. If an eligible elector returns the ballot by mail,

the elector must provide postage. The ballot shall be received at the office of the designated election official or a designated depository, which shall remain open until 7 p.m. on election day. For an election coordinated by the county clerk and recorder, the depository shall be designated by the county clerk and recorder and located in a secure place under the supervision of a municipal clerk, an election judge or a member of the clerk and recorder's staff. For an election not coordinated by the county clerk and recorder, the depository shall be designated by the designated election official and located in a secure place under the supervision of the designated election official, an election judge, or another person designated by the designated election official.

(c) THE ELIGIBLE ELECTOR SHALL SUBMIT WITH THE MARKED BALLOT A COPY OF THE ELIGIBLE ELECTOR'S IDENTIFICATION AS DEFINED IN SECTION 1-1-104 (19.5) IF:

(I) THE ELECTOR REGISTERED TO VOTE BY MAIL PURSUANT TO PART 5 OF ARTICLE 2 OF THIS TITLE; AND

(II) THE ELECTOR HAS NOT PREVIOUSLY VOTED IN AN ELECTION IN THE COUNTY.

(d) THE REQUIREMENT TO SUBMIT IDENTIFICATION PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (4) SHALL NOT APPLY TO AN ELIGIBLE ELECTOR WHO:

(I) SUBMITTED AS PART OF THE REGISTRATION BY MAIL A COPY OF THE ELECTOR'S IDENTIFICATION AS DEFINED IN SECTION 1-1-104 (19.5);

(II) REGISTERED TO VOTE PURSUANT TO SECTION 1-2-208 OR 1-2-209;

(III) VOTES PURSUANT TO SECTION 1-7-111 (2); OR

(IV) IS ENTITLED TO VOTE OTHERWISE THAN IN PERSON UNDER ANY FEDERAL LAW.

(5) (a) Once the ballot is returned, an election judge shall first qualify the submitted ballot by ~~examining the return-verification envelope and~~ comparing the information on the RETURN envelope ~~to~~ WITH the registration records to determine whether the ballot was submitted by an eligible elector who has not previously voted in the election. If the ballot so qualifies and is otherwise valid, the election judge shall indicate in the ~~poll book~~ POLLBOOK that the eligible elector cast a ballot ~~open the return-verification envelope, remove the ballot stub,~~ and deposit the ballot in an official ballot box.

(b) IF THE RETURN ENVELOPE RECEIVED FROM AN ELIGIBLE ELECTOR DESCRIBED IN PARAGRAPH (c) OF SUBSECTION (4) OF THIS SECTION DOES NOT CONTAIN IDENTIFICATION, THE BALLOT SHALL BE TREATED AS A PROVISIONAL BALLOT AND SHALL BE VERIFIED AND COUNTED IN ACCORDANCE WITH SECTION 1-9-303.

(c) FOR NOVEMBER COORDINATED ELECTIONS ONLY, THE SIGNATURE OF THE ELIGIBLE ELECTOR ON THE RETURN ENVELOPE SHALL BE COMPARED WITH THE SIGNATURE OF THE ELIGIBLE ELECTOR ON FILE IN THE OFFICE OF THE COUNTY CLERK AND RECORDER IN ACCORDANCE WITH SECTION 1-7.5-107.3.

(6) All deposited ballots shall be counted as provided in this article and by rules

promulgated by the secretary of state. A mail ballot shall be valid and counted only if it is returned in the ~~return-verification~~ RETURN envelope, the self-affirmation on the RETURN envelope is signed and completed by the eligible elector to whom the ballot was issued, and the information on the RETURN envelope is verified in accordance with subsection (5) of this section. Mail ballots shall be counted in the same manner provided by section 1-7-307 for counting paper ballots or section 1-7-507 for counting electronic ballots. If the election official determines that an eligible elector to whom a replacement ballot has been issued has voted more than once, the official shall not count any ballot cast by the elector. Rejected ballots shall be handled in the same manner as provided in section 1-8-310.

**SECTION 7.** Article 7.5 of title 1, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**1-7.5-107.3. Verification of signatures - November coordinated elections.**

(1) (a) IN EVERY MAIL BALLOT ELECTION THAT IS A NOVEMBER COORDINATED ELECTION HELD IN 2005 OR ANY SUBSEQUENT YEAR, AN ELECTION JUDGE SHALL COMPARE THE SIGNATURE ON THE SELF-AFFIRMATION ON EACH RETURN ENVELOPE WITH THE SIGNATURE OF THE ELIGIBLE ELECTOR ON FILE IN THE OFFICE OF THE COUNTY CLERK AND RECORDER IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION.

(b) FOR THE MAIL BALLOT ELECTION THAT IS A NOVEMBER COORDINATED ELECTION HELD IN 2003, THE ELECTION JUDGE SHALL COMPARE IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (1) ONLY THOSE SIGNATURES THAT ARE IN THE COUNTY CLERK AND RECORDER'S DATABASE NO LATER THAN 7 P.M. ON ELECTION DAY.

(2) (a) IF, UPON COMPARING THE SIGNATURE OF AN ELIGIBLE ELECTOR ON THE SELF-AFFIRMATION ON THE RETURN ENVELOPE WITH THE SIGNATURE OF THE ELIGIBLE ELECTOR ON FILE WITH THE COUNTY CLERK AND RECORDER, THE ELECTION JUDGE DETERMINES THAT THE SIGNATURES DO NOT MATCH, TWO OTHER ELECTION JUDGES OF DIFFERENT POLITICAL PARTY AFFILIATIONS SHALL SIMULTANEOUSLY COMPARE THE SIGNATURES. IF BOTH OTHER ELECTION JUDGES AGREE THAT THE SIGNATURES DO NOT MATCH, THE COUNTY CLERK AND RECORDER SHALL, WITHIN THREE DAYS AFTER ELECTION DAY, SEND TO THE ELIGIBLE ELECTOR AT THE ADDRESS INDICATED IN THE REGISTRATION RECORDS A LETTER EXPLAINING THE DISCREPANCY IN SIGNATURES AND A FORM FOR THE ELIGIBLE ELECTOR TO CONFIRM THAT THE ELECTOR RETURNED A BALLOT TO THE COUNTY CLERK AND RECORDER. IF THE COUNTY CLERK AND RECORDER RECEIVES THE FORM WITHIN TEN DAYS AFTER ELECTION DAY, CONFIRMING THAT THE ELECTOR RETURNED A BALLOT TO THE COUNTY CLERK AND RECORDER AND ENCLOSING A COPY OF THE ELECTOR'S IDENTIFICATION AS DEFINED IN SECTION 1-1-104 (19.5), AND IF THE BALLOT IS OTHERWISE VALID, THE BALLOT SHALL BE COUNTED. IF THE ELIGIBLE ELECTOR RETURNS THE FORM INDICATING THAT THE ELECTOR DID NOT RETURN A BALLOT TO THE COUNTY CLERK AND RECORDER, OR IF THE ELIGIBLE ELECTOR DOES NOT RETURN THE FORM WITHIN TEN DAYS AFTER ELECTION DAY, THE SELF-AFFIRMATION ON THE RETURN ENVELOPE SHALL BE CATEGORIZED AS INCORRECT, THE BALLOT SHALL NOT BE COUNTED, AND THE COUNTY CLERK AND RECORDER SHALL SEND COPIES OF THE ELIGIBLE ELECTOR'S SIGNATURE ON THE RETURN ENVELOPE AND THE SIGNATURE ON FILE WITH THE COUNTY CLERK AND RECORDER TO THE DISTRICT ATTORNEY FOR INVESTIGATION.

(b) AN ORIGINAL RETURN ENVELOPE WITH AN ENCLOSED SECRECY ENVELOPE CONTAINING A VOTED BALLOT THAT IS NOT COUNTED IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL BE STORED UNDER SEAL IN THE OFFICE OF THE COUNTY CLERK AND RECORDER APART FROM VALID RETURN ENVELOPES AND MAY BE REMOVED ONLY UNDER THE AUTHORITY OF THE DISTRICT ATTORNEY OR BY ORDER OF A COURT HAVING JURISDICTION.

(3) IF THE ELECTION JUDGE DETERMINES THAT THE SIGNATURE OF AN ELIGIBLE ELECTOR ON THE SELF-AFFIRMATION MATCHES THE ELECTOR'S SIGNATURE ON FILE WITH THE COUNTY CLERK AND RECORDER, THE ELECTION JUDGE SHALL FOLLOW THE PROCEDURES SET FORTH IN SECTION 1-7.5-107 (5) (a) AND (6).

(4) (a) AN ELECTION JUDGE SHALL NOT DETERMINE THAT THE SIGNATURE OF AN ELIGIBLE ELECTOR ON THE SELF-AFFIRMATION DOES NOT MATCH THE SIGNATURE OF THAT ELIGIBLE ELECTOR ON FILE WITH THE COUNTY CLERK AND RECORDER SOLELY ON THE BASIS OF SUBSTITUTION OF INITIALS OR USE OF A COMMON NICKNAME.

(b) THE DESIGNATED ELECTION OFFICIAL MAY PROVIDE TRAINING IN THE TECHNIQUE AND STANDARDS OF SIGNATURE COMPARISON TO ELECTION JUDGES WHO COMPARE SIGNATURES PURSUANT TO THIS SECTION.

**SECTION 8.** 1-8-113 (1), Colorado Revised Statutes, is amended to read:

**1-8-113. Manner of absentee voting.** (1) (a) Any eligible elector applying for and receiving an absentee ballot, in casting the ballot, shall make and subscribe to the self-affirmation on the return envelope. The elector shall then mark the ballot, fold the ballot or insert the ballot card in the special envelope provided for the purpose so as to conceal the marking, deposit it in the return envelope, ENCLOSE IDENTIFICATION IF REQUIRED BY PARAGRAPH (b) OF THIS SUBSECTION (1), and seal the envelope securely. The envelope may be delivered personally or mailed by the elector to the designated election official issuing the ballot. Alternatively, an elector may deliver the ballot to any person of the elector's own choice or to any duly authorized agent of the designated election official for mailing or personal delivery to the designated election official; except that no one person other than a duly authorized agent of the designated election official may receive more than five absentee ballots in any election for mailing or delivery to the designated election official. All envelopes containing absentee ballots shall be in the hands of the designated election official no later than 7 p.m. on the day of the election. Absentee envelopes received after 7 p.m. on the day of the election but postmarked on or before the day of the election will remain sealed and uncounted, but the elector's registration record will not be canceled for failure to vote in a general election.

(b) AN ELIGIBLE ELECTOR SHALL SUBMIT WITH THE ABSENTEE BALLOT A COPY OF THE ELIGIBLE ELECTOR'S IDENTIFICATION AS DEFINED IN SECTION 1-1-104 (19.5) IF:

(I) THE ELECTOR REGISTERED TO VOTE BY MAIL PURSUANT TO PART 5 OF ARTICLE 2 OF THIS TITLE; AND

(II) THE ELECTOR HAS NOT PREVIOUSLY VOTED IN AN ELECTION IN THE COUNTY.

(c) THE REQUIREMENT TO SUBMIT IDENTIFICATION PURSUANT TO PARAGRAPH (b)

OF THIS SUBSECTION (1) SHALL NOT APPLY TO AN ELIGIBLE ELECTOR WHO:

(I) SUBMITTED AS PART OF THE REGISTRATION BY MAIL A COPY OF THE ELECTOR'S IDENTIFICATION AS DEFINED IN SECTION 1-1-104 (19.5);

(II) REGISTERED TO VOTE PURSUANT TO SECTION 1-2-208 OR 1-2-209;

(III) VOTES PURSUANT TO SECTION 1-7-111 (2); OR

(IV) IS ENTITLED TO VOTE OTHERWISE THAN IN PERSON UNDER ANY FEDERAL LAW.

(d) IF THE RETURN ENVELOPE RECEIVED FROM AN ELIGIBLE ELECTOR DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (1) DOES NOT CONTAIN IDENTIFICATION, THE ABSENTEE BALLOT SHALL BE TREATED AS A PROVISIONAL BALLOT AND SHALL BE VERIFIED AND COUNTED IN ACCORDANCE WITH SECTION 1-9-303.

**SECTION 9. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 22, 2003