

## Chapter 253

### Absent Voters

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### CROSS REFERENCES

Suffrage and elections, Const. Art II	Certificate of registration permitting elector who has moved after close of registration books to vote where residing and not where registered, 247.060
253.130	Penalty, 260.610
Registration of elector in Armed Forces not to be canceled, 247.150	
253.210	253.990
Applicability of this section to primary elections, 249.520	Election offenses, Ch 260

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**253.010 "Absent voter" defined.** (1) The term "absent voter" means any elector who is absent from the county of his legal residence upon the day of any general, special or primary election, or whose place of residence is more than 15 miles from the polling place in the precinct of his registration, measured by the nearest traveled road, or who is physically unable to attend such elections in person, and who is a qualified elector of this state

(2) Before any ballot is forwarded to a person on account of physical disability, the application for it shall be accompanied by a statement that the applicant is or will be on the day of election, unable to attend the election personally. When an application, accompanied with this statement, is made to the county clerk of any county in this state, a ballot shall be sent to the address of the absent voter as provided in this chapter.

**253.020 Absent elector's right to vote.** Any absent voter, as defined in ORS 253 010, who will be entitled to vote on the date of holding any general, special or primary election for the purpose of nominating or electing national, state, legislative, county, township, city or other municipal officers, or for the adoption or rejection of constitutional amendments or initiative or referred measures or other propositions submitted, may, in addition to other ways provided by law, vote at these elections as provided in this chapter.

**253.030 Application for ballot.** Within 60 days preceding an election any voter expecting to be absent, for any reason mentioned in ORS 253.010, on the day of the election, from the county, city or town in which his voting precinct is situated, may make application to the proper officer for the official ballot or ballots to be voted at the election. The application shall be in writing and signed by the applicant

**253.040 Sending and return of ballot.** (1) On receiving an application the proper municipal officer shall file it and thereafter proceed in like manner as provided in this chapter.

(2) On receiving an application the county clerk shall file it in his office and enter the name of the voter, together with the address to which the ballot or ballots are to be sent, upon a list to be kept by the clerk. He shall also enter the date of re-

ceiving the application, the date of mailing the ballot or ballots, the date of receiving the ballot from the voter, and other information necessary or advisable. The clerk shall keep a separate list for each voting precinct in his district in the county. As soon as the official ballots are printed the clerk shall mail one each of the ballots to be voted to the absent voter, provided he is properly registered or will be a qualified elector at the coming election. These shall be mailed to the address named and the voter shall return them to the clerk not later than five days before the election so that he can place them in the elector's precinct ballot box before delivering it to the sheriff

**253.050 Initialing ballots before delivery to elector; elector's affidavit.** Upon receipt of the official ballot the county clerk shall initial a sufficient number of them in the same manner provided by law for the initialing of ballots by the judges of election. He shall forward one of them or if there be more than one ballot to be voted, then one of each, to each applicant, as shown by the list provided for in ORS 253 040. He shall use due care that they are mailed, postage prepaid, at least 10 days before the opening of the polls on election day. He shall inclose with the ballot an envelope which shall bear upon the front of it the name, official title and postoffice address of the county clerk, together with a request for return, if not called for within three days, and upon the other side a printed affidavit in substantially the following form:

State of \_\_\_\_\_ }  
County of \_\_\_\_\_ } ss

I, \_\_\_\_\_, do solemnly swear that I am a resident of \_\_\_\_\_, precinct No \_\_\_\_\_ of the [County] of \_\_\_\_\_ of the State of Oregon, [City]

and entitled to vote in such precinct; that the inclosed ballot was marked by me personally and inclosed in this envelope and sealed by me without being exhibited to any other person

\_\_\_\_\_  
[Signature of absent voter]

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
[Signature of official]

\_\_\_\_\_  
[Official title]

Commission expires \_\_\_\_\_.

**253.060 Instructions sent with ballot.** The city or county clerk, or other officer as the case may be, shall inclose with each ballot separate printed instructions containing the following:

Upon receipt of this ballot you will proceed to mark it in accordance with instructions inclosed. Then fold it so that the corner bearing the initials of the clerk may be seen without unfolding the ballot. Place the ballot in the envelope inclosed and securely seal it, make out the affidavit printed upon the back and swear to it before a notary public or other officer authorized to administer oaths. Place the necessary postage upon the envelope and deposit it in the postoffice or in some government receptacle provided for the deposit of mail matter. The ballot to be valid must be mailed so that it will reach the county or city clerk in which your precinct is located five days before the election so that it may be deposited in the proper ballot box before delivering the ballot box to the sheriff.

**253.070 Marking and returning ballot.** Upon receipt of a ballot the voter to whom it is addressed shall mark it and otherwise comply with the printed instructions provided by ORS 253 060. The ballot, in order to be valid, must be received by the county clerk or city clerk five days before the election so that it may be deposited in the proper ballot box before delivering the ballot box to the sheriff.

**253.080 Duties of clerk on receipt of ballot.** Upon receipt of the envelope containing the marked ballots of any absent voter, the clerk shall keep it safely in his office until the ballot boxes are filled ready for delivery to the sheriff. Then the absent voters' ballots shall be placed in their respective boxes and delivered to the sheriff.

**253.090 Procedure for verifying vote.** The election board shall verify the legality of the vote by a comparison of the signature of the affidavit with that upon the application of the elector, by an examination of the poll book to see that the elector has not voted in person, and is a registered elector, and by an examination of the affidavit of the elector to see that it is properly filled out and attested.

**253.100 Opening envelope and depositing ballot in box.** When the election board has verified the legality of the vote as re-

quired by ORS 253 090, they shall open the absent voter's envelope and take out the ballot or ballots. Without unfolding them or permitting them to be opened or examined, they or one of them, shall detach the perforated numbered corner and, having satisfied themselves that the initials on it are the initials of the county clerk, they shall deposit them in the regular box or boxes provided for that purpose and shall deposit the ballot or ballots in the regular ballot box to be counted with the other ballots cast at the election. They shall also enter upon the proper poll book the fact of the voter having voted at the election by means of an absent voter's ballot

**253.110 Rejection of a ballot.** If upon the examination of the envelope containing an absent voter's ballot or ballots the affidavit thereon is found to be insufficient or the signatures do not correspond, or if upon examination of the poll book it is discovered that such absent voter has voted in person in the precinct wherein he resides, or if in any way it is determined by the board that such ballot is illegal, then the vote shall not be allowed. Without opening the absent voter's envelope, the board or some member thereof shall mark across the face of the envelope "Rejected as defective" or "Illegal," as the case may be. The envelope and the ballot or ballots contained therein shall be retained and preserved in the manner now provided by law for the retention and preservation of defective official ballots voted at the election

**253.120 Right of elector receiving absent voter's ballot to vote in person; double voting.** (1) The provisions of this chapter shall not be construed to prohibit any absent voter, returning to his place of residence, from voting in person within the precinct at any general, special or primary election. He may vote in person, even though he has made application for an absent voter's ballot and it has been mailed to him, if he has not availed himself of the privileges of an absent voter as provided by this chapter and voted the ballot mailed to him and if he returns such ballot, if received, to the election board. The election board shall mark it "Canceled" and place it in the regular ballot box with other ballots cast at the election.

(2) No voter shall vote in person and by means of an absent voter's ballot, or attempt so to vote.

**253.130 Citizen in Armed Forces permitted to vote by mail.** (1) In time of war, notwithstanding any provision of the laws of this state relating to the registration of voters, every citizen of this state absent from the place of his residence and serving in the Army, Navy or Marine Corps or in any other branch or unit of the land or naval armed forces of the United States, who is or was eligible to register for, and is qualified to vote at, any election under the Constitution and laws of this state, shall be entitled to vote by mail. He shall be entitled to vote for candidates for nomination for, and election to, public offices and upon constitutional amendments, measures and questions referred to the people.

(2) The Secretary of State shall coordinate the operation of subsection (1) of this section with the procedure provided by Acts of Congress whereby members of the land and naval forces of the United States are or may be authorized to vote by mail for candidates for elective federal offices. Compliance with these Acts of Congress shall entitle the elector to vote for candidates for nomination for, or election to, state, district, county and municipal offices and upon proposed legislation submitted to the people.

(3) Any oath prescribed by the laws of this state relating to the registration of absent voters or to voting by absent voter's ballot, may be administered to a member of the land or naval forces of the United States and attested by a commissioned officer of any branch of the armed services.

**253.140 Courts having jurisdiction of offenses.** District courts and justices of the peace shall have jurisdiction of the offenses named in ORS 253 010 to 253.150.

**253.150 Failure of officials to perform duties.** Failure, neglect or refusal on the part of any official to perform the duties required of him by ORS 253.010 to 253.150 shall constitute malfeasance in office and for such he shall be subject to the penalties provided by law.

**253.160 to 253.200** [Reserved for expansion]

**253.210 Registered elector permitted to vote in person in precinct other than his own, when.** Any registered elector who may be absent from the county on the day of election may procure from the county clerk of his county a certificate of his registration. On a request stating in which precinct the elector registered, the county clerk shall make the certificate under the seal of the county court and it may be accepted by the election officials of any precinct in any county as evidence of the right of the person named therein to vote for state and district officers and measures, as the case may be. The certificate shall be subject to challenge as is the voters list under ORS 250 350. It shall be invalid for all purposes after the next general election for state officers following the date of issuance. It shall be returned to the county clerk in a separate package and by him returned to the county clerk who issued it.

**253.990 Penalties.** Violation of any of the provisions of ORS 253.010 to 253.150 is punishable upon conviction by a fine of not less than \$10 nor more than \$300 or by imprisonment in the county jail not to exceed six months or both

