

APA-1
07/04

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. _____ Department or Agency: Secretary of State

Rule No. 820-2-9

Rule Title: Alabama Photo Voter Identification Law Implementation Procedures

New _____ Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare or safety?
No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety or welfare?
Yes

Is there another, less restrictive method of regulation available that could adequately protect the public?
No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?
No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule?
No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?
Yes

.....
Does the proposed rule have an economic impact?
No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

.....
Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying office

Beth Chipman

Date 6-28-13

APA-2
07/04

NEW

Office of the Secretary of State
Elections Division

NOTICE OF INTENDED ACTION

AGENCY NAME: Secretary of State

RULE NO. & TITLE: 820-2-9 Alabama Photo Voter Identification
Law Implementation Procedures

INTENDED ACTION: New rule.

SUBSTANCE OF PROPOSED ACTION:

Adopt Alabama photo voter identification card rules to comply with Act 2011-673 amendments to the Code of Alabama, section 17-9-30 (2011).

TIME, PLACE, MANNER OF PRESENTING VIEWS:

Views may be presented orally or in writing and should be addressed to Jean Brown, Chief Legal Advisor, Office of the Secretary of State, P.O. Box 5616, Montgomery, Alabama 36103; 334-242-7202.

FINAL DATE FOR COMMENT AND COMPLETION OF THE NOTICE:

September 4, 2012

CONTACT PERSON AT AGENCY:

Jean Brown, Office of the Secretary of State, State Capitol, 600 Dexter Avenue, Suite S-201, Montgomery, Alabama 36104; 334-242-7202.



(Signature of officer authorized to promulgate and adopt rules or his or her deputy)

NEW

Alabama Photo Voter Identification Law Implementation Procedures

Table of Contents

820-2-9-.01	Purpose.
820-2-9-.02	Effective Date.
820-2-9-.03	Instructions and Application Form for Free Alabama Photo Voter Identification Card.
820-2-9-.04	Free Nondriver Identification Card Application Form.
820-2-9-.05	Locations Where Alabama Electors Can Obtain Free Nondriver Identification Card or Alabama Photo Voter Identification Card.
820-2-9-.06	Processing Application for Free Alabama Photo Voter Identification Card.
820-2-9-.07	Cancellation and Surrender of Alabama Photo Voter Identification Card.
820-2-9-.08	Replacement of Alabama Photo Voter Identification Card.
820-2-9-.09	Expiration of Alabama Photo Voter Identification Card.
820-2-9-.10	Voting by Provisional Ballot.
820-2-9-.11	Identification by Two Election Officials.
820-2-9-.12	Inapplicability to UOCAVA Voters and Voters Entitled to Vote Pursuant to the Voting Accessibility for the Elderly and Handicapped Act.

820-2-9-.01 Purpose. The purpose of this chapter is to establish procedures for Alabama voters to obtain a free Alabama Photo Voter Identification Card or free nondriver identification card. An Alabama Photo Voter Identification Card shall be valid only for the purposes of voter identification and said card shall so state. No fee shall be charged or collected from an Alabama elector for the application for or issuance of an Alabama Photo Voter Identification Card. Likewise, if an Alabama elector does not possess any of the forms of valid photo identification set forth in Rule 820-2-9-.03, no fee shall be charged or collected from an Alabama elector for the application for or issuance of an Alabama nondriver identification card by the office located within the elector's county of residence where driver's licenses/nondriver identification cards are issued.

Authors: Jean Brown; Julie Sinclair; Ed Packard.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed July 31, 2013; effective September 4, 2013.

820-2-9-.02 Effective Date of Alabama Photo Voter Identification. Beginning with the first statewide primary election for 2014, each Alabama elector shall be required to provide valid photo identification to an appropriate election official prior to voting. Anyone voting an absentee ballot shall also be required to submit with the ballot a copy of one of the forms of valid photo identification set forth in Rule 820-2-9-.03.

Authors: Jean Brown; Julie Sinclair; Ed Packard.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed July 31, 2013; effective September 4, 2013.

820-2-9-.03 Instructions and Application Form for Free Alabama Photo Voter Identification Card.

The following instructions and form shall be used by Alabama electors who do not have any of the following forms of valid photo identification: (a) a valid Alabama driver's license; (b) a valid nondriver identification card which was properly issued by the appropriate state or county department or agency; (c) a valid Alabama Photo Voter Identification Card; (d) a valid identification card issued by a branch, department, agency, or entity of the State of Alabama, any other state, or the United States authorized by law to issue personal identification, provided that such identification card contains a photograph of the elector; (e) a valid U.S. passport; (f) a valid employee identification card containing the photograph of the elector and issued by any branch, department, agency, or entity of the U.S. government, the state of Alabama, or any county, municipality, board, authority, or other entity of this state; (g) a valid student or employee identification card issued by a public or private college, university, or postgraduate technical or professional school located within the state of Alabama, provided that such identification card contains a photograph of the elector; (h) a valid U.S. military identification card, provided that such identification card contains a photograph of the

elector; or (i) a valid tribal identification card containing a photograph of the elector.

INSTRUCTIONS FOR FREE ALABAMA PHOTO VOTER IDENTIFICATION CARD

You can only apply for a free Alabama Photo Voter Identification Card if you are registered to vote in Alabama and do not have any of the following:

(a) A valid Alabama driver's license or nondriver identification card which was properly issued by the appropriate state or county department or agency;

(b) A valid Alabama Photo Voter Identification Card;

(c) A valid identification card issued by a branch, department, agency, or entity of the State of Alabama, any other state, or the United States authorized by law to issue personal identification, provided that such identification card contains a photograph of the elector;

(d) A valid U.S. passport;

(e) A valid employee identification card containing the photograph of the elector and issued by any branch, department, agency, or entity of the U.S. government, the state of Alabama, or any county, municipality, board, authority, or other entity of this state;

(f) A valid student or employee identification card issued by a public or private college, university, or postgraduate technical or professional school located within the state of Alabama, provided that such identification card contains a photograph of the elector;

(g) A valid U.S. military identification card, provided that such identification card contains a photograph of the elector; or

(h) A valid tribal identification card containing a photograph of the elector.

If you already possess one of these documents, do not complete the Alabama Photo Voter Identification Card application.

Your application must be signed and sworn to before a notary public. Any falsification or fraud in the making of this application shall constitute a Class C felony.

OFFICE OF THE SECRETARY OF STATE
APPLICATION FOR FREE ALABAMA PHOTO VOTER IDENTIFICATION CARD
FOR USE BY ALABAMA REGISTERED VOTERS ONLY
ANY FALSIFICATION OR FRAUD IN THE MAKING OF THIS APPLICATION SHALL CONSTITUTE
A CLASS C FELONY

Full Legal Name (Print) _____
Address as reflected in voter registration record
(street address) _____
City, State and ZIP Code _____
Date of Birth (00/00/0000) _____
Eye Color _____ Gender _____ Height _____ Weight _____ Application Date _____

In order to process your application you must provide the following information:
(All of the following information can be contained in one document.)

- (1) A photo identification document, except that a non-photo identification document is acceptable if it contains your full legal name and date of birth;
- (2) Documentation showing your date of birth;
- (3) Documentation showing that you are an Alabama registered voter (can be electronically verified by the issuing office);
- (4) Documentation showing your name and address as reflected in your voter registration record (can be electronically verified by the issuing office).

I, _____, a registered voter in the state of Alabama, do hereby attest that the information contained above is true and correct.

Signature of Alabama registered voter (Full Legal Name)

(For Notary Public)
County of _____
State of _____

Before me, a notary public, personally appeared _____, who being made known to me, attests that the information contained above is true and correct. Witness my hand and seal this the _____ day of _____, 2_____.

Signature of Notary Public _____ Printed Name _____
My Commission expires _____

Authors: Jean Brown; Julie Sinclair; Ed Packard.
Statutory Authority: Code of Alabama, section 17-9-30 (2011).
History: New Rule: Filed July 31, 2013; effective September 4, 2013.

820-2-9-.04 Free Nondriver Identification Card Application Form.

The following application form shall be used only by Alabama electors who wish to obtain a free nondriver identification card and do not have any of the following forms of valid photo identification: (a) A valid Alabama driver's license; (b) a valid nondriver identification card which was properly issued by the appropriate state or county department or agency; (c) a valid Alabama Photo Voter Identification Card; (d) a valid identification card issued by a branch, department, agency, or entity of the state of Alabama, any other state, or the United States authorized by law to issue personal identification, provided that such identification card contains a photograph of the elector; (e) a valid U.S. passport; (f) a valid employee identification card containing the photograph of the elector and issued by any branch, department, agency, or entity of the U.S. government, the state of Alabama, or any county, municipality, board, authority, or other entity of this state; (g) a valid student or employee identification card issued by a public or private college, university, or postgraduate technical or professional school located within the state of Alabama, provided that such identification card contains a photograph of the elector; (h) a valid U.S. military identification card, provided that such identification card contains a photograph of the elector; or (i) a valid tribal identification card containing a photograph of the elector.

APPLICATION FOR FREE NONDRIVER IDENTIFICATION CARD
FOR USE BY ALABAMA REGISTERED VOTERS ONLY

(To be provided to state or county department or agency that issues driver's licenses/nondriver identification cards)

I, _____ (print name), hereby attest that I am an Alabama elector and that I do not currently possess any of the following forms of valid photo identification: (a) A valid Alabama driver's license; (b) a valid Alabama nondriver identification card which was properly issued by the appropriate state or county department or agency; (c) a valid Alabama Photo Voter Identification Card; (d) a valid identification card issued by a branch, department, agency, or entity of the state of Alabama, any other state, or the United States authorized by law to issue personal identification, provided that such identification card contains a photograph of the elector; (e) a valid U.S. passport; (f) a valid employee identification card containing the photograph of the elector and issued by any branch, department, agency, or entity of the U.S. government, the state of Alabama, or any county, municipality, board, authority, or other entity of this state; (g) a valid student or employee identification card issued by a public or private college, university, or postgraduate technical or professional school located within the state of Alabama, provided that such identification card contains a photograph of the elector; (h) a valid U.S. military identification card, provided that such identification card contains a photograph of the elector; or (i) a valid tribal identification card containing a photograph of the elector.

I understand and acknowledge that if I possess any of the valid photo identification documents set forth above, I am not entitled to apply for a free nondriver identification card. I further understand and acknowledge that the issuance of the nondriver identification card is governed by the requirements of the office that issues driver's license/nondriver identification cards.

(Printed Name)

(Signature)

Authors: Jean Brown; Julie Sinclair; Ed Packard.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed July 31, 2013; effective September 4, 2013.

820-2-9-.05

Locations Where Alabama Electors Can Obtain Free
Alabama Photo Voter Identification Card or
Nondriver Identification Card.

Alabama electors can obtain a free Alabama Photo Voter Identification Card or free nondriver identification card at the following locations:

- (a) Nondriver identification cards. Alabama electors can obtain a free nondriver identification card at the location within the county of residence where driver's licenses/nondriver identification cards are issued, subject to the requirements of the issuing office. Before obtaining a free nondriver identification card, an Alabama elector must complete an application stating that he or she does not possess any of the following:
- (a) A valid Alabama driver's license or nondriver identification card which was properly issued by the appropriate state or county department or agency;
 - (b) a valid Alabama Photo Voter Identification Card;
 - (c) a valid identification card issued by a branch, department, agency, or entity of the state of Alabama, any other state, or the United States authorized by law to issue personal identification, provided that such identification card contains a photograph of the elector;
 - (d) a valid U.S. passport;
 - (e) a valid employee identification card containing the photograph of the elector and issued by any branch, department, agency, or entity of the U.S. government, the state of Alabama, or any county, municipality, board, authority, or other entity of this state;
 - (f) a valid student or employee identification card issued by a public or private college, university, or postgraduate technical or professional school located within the state of Alabama, provided that such identification card contains a photograph of the elector;
 - (g) a valid U.S. military identification card, provided that such identification card contains a photograph of the elector;
 - or (h) a valid tribal identification card containing a photograph of the elector.
- Any charge incurred in the production of the nondriver identification card by said offices pursuant to this rule shall be billed to the Secretary of State's office and the elector shall not be charged for the production of the card.
- (b) Alabama Photo Voter Identification Cards. Alabama Photo Voter Identification Cards can be obtained at the following locations: (1) At the county Board of Registrars' office where the elector is registered to vote. Any charge incurred by the county Board of

Registrars shall be billed to the Secretary of State's office and the elector shall not be charged for the production of the card; (2) At the Secretary of State's office located at 600 Dexter Avenue, Montgomery, Alabama (state capitol). The Secretary of State's office shall pay any costs incurred in the production of the card and the elector shall not be charged for the production of the card; (3) At locations to be provided by a mobile vendor pursuant to an agreement with the Secretary of State's office. There shall be no charge to an elector for production of the card and the Secretary of State shall pay any costs incurred in the production of the card.

- (c) In the event an elector's county of residence has more than one courthouse, an elector can obtain the free Alabama Photo Voter Identification Card at either courthouse at his or her convenience.

Authors: Jean Brown; Julie Sinclair; Ed Packard.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed July 31, 2013; effective September 4, 2013.

820-2-9-.06

Processing Applications for Alabama Photo Voter Identification Card.

- (a) To process the elector's application for the Alabama Photo Voter Identification Card the processing agent shall require the elector to complete, sign, and submit the application form set forth in Rule 820-2-9-.03 and to present at least one of the forms of identification set forth in the application form. If the elector completes, signs, and submits an application and presents the required information set forth in the application form, the processing agent shall immediately:
- (1) Capture a digital photograph of the elector;
 - (2) Issue the receipt for the Alabama Photo Voter Identification Card to the elector, which shall contain the digital photograph of the elector;
 - (3) Inform the elector that he or she should receive the Alabama Photo Voter Identification Card within fourteen (14) days

and that the elector can use the receipt for the Alabama Photo Voter Identification Card to vote for forty-five (45) days from the date of issuance.

- (b) If the elector completes, signs, and submits an application but the processing agent determines the form of identification presented by the elector does not satisfy the requirements of Rule 820-2-9-.03, the processing agent shall immediately advise the elector of the reason(s) why the application has been denied, and further advise the voter of the availability of an appeal process.
- (c) In the event an elector is denied issuance of an Alabama Photo Voter Identification Card, the elector shall have the right to appeal the denial through the appeals process outlined in Code of Alabama, section 17-3-55. The processing agent shall not be made a party to any appeal and shall not be liable for costs.

Authors: Jean Brown; Julie Sinclair; Ed Packard.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed July 31, 2013; effective September 4, 2013.

820-2-9-.07 Cancellation and Surrender of Alabama Photo Voter Identification Card. The processing agent for an Alabama Photo Voter Identification Card may cancel and require surrender of the card upon confirmation that the card was issued to a person not entitled thereto. In the event a card is cancelled, notice shall be given to the county Board of Registrars who shall immediately record the cancellation in the statewide voter registration system and send notice by U.S. mail to the card recipient at the address shown on the card that was issued.

Authors: Jean Brown; Julie Sinclair; Ed Packard.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed July 31, 2013; effective September 4, 2013.

820-2-9-.08 Replacement of Alabama Photo Voter Identification Card. If a previously issued Alabama Photo Voter

Identification Card has been lost, destroyed, marred or mutilated or the name of the elector has changed, a replacement card may be issued to the elector in accordance with the procedures set forth herein in Rules 820-2-9-.03 and 820-2-9-.06.

Authors: Jean Brown; Julie Sinclair; Ed Packard.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed July 31, 2013; effective September 4, 2013.

820-2-9-.09

Expiration of Alabama Photo Voter Identification Card.

- (a) An Alabama Photo Voter Identification Card shall remain valid for as long as the elector resides at the same address shown on the card and remains qualified to vote in Alabama. An Alabama nondriver identification card shall remain valid until the expiration date contained on the card.
- (b) It shall be the duty of an elector who moves his or her residence to another county within this state to surrender his or her Alabama Photo Voter Identification Card to the Secretary of State. The elector may thereafter apply for and receive a new Alabama Photo Voter Identification Card in accordance with Rules 820-2-9-.03 and 820-2-9-.06 above. It shall be the duty of an elector who moves his or her residence outside this state or who ceases to be qualified to vote to surrender his or her Alabama Photo Identification Card to the Secretary of State.

Authors: Jean Brown; Julie Sinclair; Ed Packard.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed July 31, 2013; effective September 4, 2013.

820-2-9-.10

Voting by Provisional Ballot. Any elector who is required to produce a valid Alabama photo identification as defined in Rule 820-2-9-.03 but

is unable to do so at the time his or her vote is cast shall be allowed to vote a provisional ballot and shall be subject to the requirements of Code of Alabama, section 17-10-2(3).

Authors: Jean Brown; Julie Sinclair; Ed Packard.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed July 31, 2013; effective September 4, 2013.

820-2-9-.11 Identification by Two Election Officials and Affidavit Form.

- (a) If an elector does not have a valid Alabama photo identification as defined in Rule 820-2-9-.03 in his or her possession at the polls, he or she shall be allowed to cast a regular ballot if the individual is positively identified by two election officials as a voter on the poll list who is eligible to vote and both of the election officials sign sworn affidavits so stating.
- (b) The affidavit form to be used when two election officials positively identify an individual as a voter on the poll list who is eligible to vote shall read as follows:

County of _____
State of Alabama

I, _____ (print name), an election official in the above stated county, do hereby attest that _____ (print elector's name and address as printed in poll book) does not have a valid Alabama photo identification in his/her possession at the polls. I further attest that said elector has been positively identified by me as a voter on the poll list who is eligible to vote.

(Signature of Election Official)

(Printed Name)

Before me, a notary public in the State of Alabama, personally appeared _____ (print name), an election official,

who being made known to me, attests that the information contained above is true and correct. Witness my hand and seal this the _____ day of _____, 2_____.

Signature of Notary Public _____

Printed Name _____

My Commission Expires _____.

Authors: Jean Brown; Julie Sinclair; Ed Packard.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed July 31, 2013; effective September 4, 2013.

820-2-9-.12

Inapplicability to UOCAVA Voters and Voters Entitled to Vote Pursuant to the Voting Accessibility for the Elderly and Handicapped Act.

A voter who is entitled to vote by absentee ballot pursuant to the Uniformed and Overseas Citizens Absentee Voting Act; Section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (subchapter 1-F of Chapter 20 of Title 42 U.S.C.); or any other federal law, shall not be required to produce identification prior to voting.

Authors: Jean Brown; Julie Sinclair; Ed Packard.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed July 31, 2013; effective September 4, 2013.