

HOUSE BILL NO. 173

INTRODUCED BY D. BEDEY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO VOTE-COUNTING MACHINES; REQUIRING MANUFACTURER CERTIFICATION; PROHIBITING ~~UNAUTHORIZED~~ MODEMS AND OTHER UNAUTHORIZED EXTERNAL COMMUNICATION DEVICES IN VOTE-COUNTING MACHINES; PROVIDING A PENALTY FOR TAMPERING WITH VOTE-COUNTING MACHINES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 13-17-103 AND 13-35-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 13-17-103, MCA, is amended to read:

"13-17-103. Required specifications for voting systems. (1) A voting system may not be approved under 13-17-101 unless the voting system:

- (a) allows an elector to vote in secrecy;
- (b) prevents an elector from voting for any candidate or on any ballot issue more than once;
- (c) prevents an elector from voting on any office or ballot issue for which the elector is not entitled to vote;
- (d) allows an elector to vote only for the candidates of the party selected by the elector in the primary election;
- (e) allows an elector to vote a split ticket in a general election if the elector desires;
- (f) allows each valid vote cast to be registered and recorded within the performance standards adopted pursuant to subsection (3);
- (g) is protected from tampering for a fraudulent purpose;
- (h) prevents an individual from seeing or knowing the number of votes registered for any candidate or on any ballot issue during the progress of voting;
- (i) allows write-in voting;

(j) will, if purchased by a jurisdiction within the state, be provided with a guarantee that the training and technical assistance will be provided to election officials under the contract for purchase of the voting system;

(k) uses a paper ballot that allows votes to be manually counted; ~~and~~

(l) allows auditors to access and monitor any software program while it is running on the system to determine whether the software is running properly; and

(m) is certified by the manufacturer to be free of any ~~unauthorized~~ modems or other ~~unauthorized~~ external communication devices.

(2) A voter interface device may not be approved for use in this state unless:

(a) the device meets the electronic security standards adopted by the secretary of state;

(b) the device provides accessible voting technology for electors with hearing, vision, speech, or ambulatory impairments;

(c) the device meets all requirements specified in subsection (1);

(d) the device has been made available for demonstration and use by electors with disabilities in at least one public event held by the secretary of state; ~~and~~

(e) disabled electors have been able to participate in the process of determining whether the system meets accessibility standards; ~~and~~

(f) the device is certified by the manufacturer to be free of any ~~unauthorized~~ modems or other ~~unauthorized~~ external communication devices; and

(g) the newly procured device has been tested by a third-party tester before its first use to validate the manufacturer's certification required in subsection (2)(f).

(3) To implement the provisions of subsection (1)(f), the secretary of state shall adopt rules setting a benchmark performance standard that must be met in tests by each voting system prior to approval under 13-17-101. The standard must be based on commonly accepted industry standards for readily available technologies.

(4) (a) To implement the provisions of subsection (2)(g), the secretary of state shall adopt rules defining approved third-party testers and the testing process for voter interface devices.

(b) The county acquiring the new voter interface device shall cover the cost of the third-party test.

The county may conduct additional third-party tests throughout the life of the voter interface device, and of voter interface devices already in the county's possession and use, at the county's discretion and expense following the rules adopted by the secretary of state pursuant to subsection (4)(a)."

Section 2. Section 13-35-205, MCA, is amended to read:

"13-35-205. Tampering with election records and information. A person is guilty of tampering with public records or information and is punishable as provided in 45-7-208 whenever the person:

- (1) suppresses any declaration or certificate of nomination that has been filed;
- (2) purposely causes a vote to be incorrectly recorded as to the candidate or ballot issue voted on;
- (3) in an election return, knowingly adds to or subtracts from the votes actually cast at the election;
- (4) changes any ballot after it has been completed by the elector;
- (5) adds a ballot to those legally polled at an election, either before or after the ballots have been counted, with the purpose of changing the result of the election;
- (6) causes a name to be placed on the registry lists other than in the manner provided by this title;
- or
- (7) changes a poll list or checklist;
- (8) installs ~~an unauthorized~~ a modem or other ~~unauthorized~~ external communication device in a vote-counting machine; or
- (9) employs ~~an unauthorized~~ a modem or other ~~unauthorized~~ external communication device to transmit data to or from a vote-counting machine."

NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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