

Proposed Amendment with Changes Outlined. (Revised June 11, 2007)

AN ACT to amend the election law, in relation to electronic voting machines and systems

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 1-104 of the election law is amended to add a new paragraph 38 to read as follows:

38. A technology, including software, is an “election-dedicated voting system technology” if it is specifically designed for use solely or primarily in a voting system or has been specifically modified for use solely or primarily in a voting system, but only to the extent of such modification. Any element of a technology that has not been specifically designed or modified for use solely or primarily in a voting system shall not constitute an “election-dedicated voting system technology”.

§2. Section 7-208 of the election law is amended to read as follows:

Escrow requirements. Prior to the use of any voting machine or system in any election in the state, on or after September first, two thousand six, the state board of elections and the local board of elections using such voting machine or system shall:

1. Require that the manufacturer and/or vendor of such voting machine, system or equipment shall place into escrow with the state board of elections a complete copy of:

(a) in the case of “election-dedicated voting system technology” implemented in such voting machine, system, or equipment, the information necessary to assess the integrity and efficacy of such technology. In the case of any such technology comprised of software, this information may include the ballot programming files, source code, or object code of such software; and

(b) in the case of all other technologies comprised of software, only the object code of such software as implemented in such voting machine, system or equipment.

Any information subject to escrow pursuant to this paragraph may be used or disclosed solely for the purposes authorized by this chapter and may not be used or disclosed for any other purpose.

2. Require that the manufacturer and/or vendor of such voting machine, system or equipment file with the state board of elections and the appropriate local boards of elections a waiver, prepared by the state board of elections, which shall authorize any information subject to escrow under paragraph 1 of this section to be disclosed to a court of competent jurisdiction for purposes of evaluating a challenge to the results of an election in the State of New York in which such voting machine, system, or equipment was used, including for evaluation by an independent experts under court supervision, so long as such information is immediately placed under seal. The independent expert and the court, and any other party to whom such information is disclosed pursuant to this paragraph, shall be required to maintain the confidentiality of such information.

3. Require that the manufacturer and/or vendor of such equipment file with the state board of elections and the appropriate local boards of elections a consent to the testing of any information subject to escrow under paragraph 1 of this section, pursuant to an order of any board of election or court of competent jurisdiction, which shall include a commitment not to object to or otherwise obstruct such testing. Any person or entity to whom such information is disclosed pursuant to this paragraph shall be required to maintain the confidentiality of such information.

§ 3. This act shall take effect immediately.