

A Potentially Dangerous Provision in the New Same-Day Voter Registration Law — IMPORTING THE LIST of UNREGISTERED but ELIGIBLE VOTERS from the MOTOR VEHICLE DIVISION (MVD)

This is the 6th in a series of articles addressing the changes made to the New Mexico Election Code during the 2019 legislative session.

Provided by: NEW MEXICO ELECTION INTEGRITY
(a task force sponsored by [The New Mexico Justice Project](#))

Article #6:

Senate Bill 672, which became law this year, has a provision that states:

“No later than June 30, 2021 and upon the approval of the voting system certification committee, the secretary of state and the secretary of taxation and revenue shall develop a procedure for importing the list of eligible but unregistered persons with a driver's license or state-issued identification card into the voter registration electronic management system prior to an election to facilitate processing a new voter registration pursuant to this section.” (This is now codified as 1-4-5.7 (I) of the Election Code)

Since this same bill also provides for automatic voter registration at MVD, the only people who should be on this list are people who declined to register to vote. Drivers who are not eligible to vote should not be on the list according to the definition.

The apparent purpose of this provision is to aid in registering voters during the same-day voter registration period by having the information of unregistered voters who have a driver's license or state-issued ID card already in the voter file. That seems like something that should increase the accuracy of voter registrations by people who did not want to register at MVD when they got their license, but who have decided in the waning days of an election to go ahead and register. Fair enough.

But it leaves an open question: What about the people who register and vote on the same day, but who DO NOT have a New Mexico driver's license or state ID card? Will their information be verified in any way before they are allowed to vote?

It is pretty clear that those who have qualified for a New Mexico driver's license or state-issued ID, with its stringent “Real ID” requirements, are in one reasonably safe category. But the last-minute walk-ups, who do NOT have such an ID, present a different story.

If a person appears and wants to register and vote, but gives a false or incorrect social security number or a false or incorrect date of birth (which could indicate that the person may be an imposter), will the county clerk's staff be able to catch the error before the registration is processed and the voter has already cast a ballot?

Maybe they can, but it seems unlikely that all such errors can be caught. After all, though it is titled “SAME-DAY” registration, in reality it will mean the “same-minute” that a such a new registrant will go ahead and vote. There is literally no time for verification.

There's another issue with the Secretary of State developing this list of eligible but unregistered voters. Such lists—just like the statewide voter file—are most likely deemed a public record. But even if it is made an exception, and is not deemed a public record, what if that list were made public before the election, either as part of the voter file, or in some other release? The answer is that it would be a tremendous tool for unscrupulous people to use to commit vote fraud.

People working a for-profit, or a for-politics organization (or both) would have a list of names of eligible voters, complete with their addresses, ages, and mailing addresses. Such information could be used by these groups, a number of which operate under a “pay-for-registrant” incentive program (the now infamous ACORN operated on that basis), to register voters by mail, or perhaps online.

Such phantom voters could then mail in absentee ballot requests, or, perhaps even more easily, use the somewhat controversial electronic absentee ballot application.

We are not trying to be alarmist. And we are certainly not saying that such things will happen. But we are raising these scenarios because we do believe there are many, many unanswered questions regarding the way in which many of these changes to the Election Code will be implemented.

That is why we are emphasizing that it is vitally important that the "LIST" discussed above be used solely for the purpose of confirming the identity of a same-day voter by a county clerk's office employee, and not for any other purpose.

An additional concern is that any use other than simply to confirm the identity of same-day registrants would likely be in violation of both state and federal driver information privacy laws.