AMENDED IN SENATE MAY 26, 2016

AMENDED IN ASSEMBLY JANUARY 14, 2016

AMENDED IN ASSEMBLY JANUARY 4, 2016

AMENDED IN ASSEMBLY APRIL 22, 2015

AMENDED IN ASSEMBLY APRIL 7, 2015

ASSEMBLY BILL   No. 1494

Introduced by Assembly Member Levine
(Coauthor: Assembly Member Gallagher)
(Coauthor: Senator McGuire)

February 27, 2015

An act to amend ~~Sections~~ *Section* 14291~~, 18403, 18564, and 18564.5~~ of, and to repeal Section 14276 of, the Elections Code, relating to voting.

LEGISLATIVE COUNSEL'S DIGEST

AB 1494, as amended, Levine. Voting: marked ~~ballots: distributing and sharing photographs and digital images.~~ *ballots.*

Existing law prohibits a voter from showing his or her ballot after it is marked in such a way as to reveal its contents. Existing law provides that a person who interferes or attempts to interfere with the secrecy of voting is guilty of a felony, and authorizes the Secretary of State, the Attorney General, or a local elections official to bring an action to impose additional civil penalties for committing those acts.

This bill would authorize a voter to ~~take a photograph or digital image of his or her marked ballot and distribute or share that photograph or digital image using social media or by any other means, unless the voter~~

~~does so for certain prohibited purposes. The bill would exempt these~~
~~authorized acts from the criminal and civil penalties described above.~~
~~The bill would also repeal a duplicative provision.~~ *voluntarily disclose*
how he or she voted or distribute an image of his or her own marked
ballot if that voluntary act does not violate any other law.

~~Under existing law, any person other than an elections official or a~~
~~member of the precinct board who receives a voted ballot from a voter~~
~~or who examines or solicits the voter to show his or her voted ballot is~~
~~guilty of an offense punishable by a fine, imprisonment, or by both fine~~
~~and imprisonment. Existing law exempts from this crime a person~~
~~returning a vote by mail ballot or persons assisting a voter.~~

~~The bill would also exempt from that crime a person examining or~~
~~soliciting a voter to show a photograph or digital image of his or her~~
~~marked ballot that has been distributed or shared using social media or~~
~~by other means.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*.
State-mandated local program: no.

The people of the State of California do enact as follows:

1   SECTION 1. Section 14276 of the Elections Code is repealed.
2   SEC. 2. Section 14291 of the Elections Code is amended to
3 read:
4   14291. (a) After the ballot is marked, a voter shall not show
5 it to any person in such a way as to reveal its contents, except as
6 provided in subdivision (b).
7   *(b) A voter may voluntarily disclose how he or she voted or*
8 *distribute an image of his or her own marked ballot if that*
9 *voluntary act does not violate any other law.*
10   ~~(b) A voter may take a photograph or digital image of his or her~~
11 ~~marked ballot and distribute or share the photograph or digital~~
12 ~~image using social media or by any other means. A photograph or~~
13 ~~digital image taken and distributed or shared pursuant to this~~
14 ~~subdivision shall not be used to coerce or intimidate a voter, impede~~
15 ~~a voter's ability to vote, cause voter delay in a polling place, disrupt~~
16 ~~a polling place, or result in a monetary or tangible benefit for any~~
17 ~~purpose.~~
18   ~~SEC. 3. Section 18403 of the Elections Code is amended to~~
19 ~~read:~~

1   18403. Any person other than an elections official or a member
2 of the precinct board who receives a voted ballot from a voter or
3 who examines or solicits the voter to show his or her voted ballot
4 is punishable by a fine not exceeding ten thousand dollars
5 ($10,000), by imprisonment pursuant to subdivision (h) of Section
6 1170 of the Penal Code for 16 months or two or three years, or in
7 a county jail not exceeding one year, or by both that fine and
8 imprisonment. This section does not apply to persons returning a
9 vote by mail ballot pursuant to Sections 3017 and 3021, to persons
10 assisting a voter pursuant to Section 14282, or to persons
11 examining or soliciting a voter to show a photograph or digital
12 image of a ballot that has been distributed or shared pursuant to
13 subdivision (b) of Section 14291.
14   SEC. 4. Section 18564 of the Elections Code is amended to
15 read:
16   18564. Any person is guilty of a felony, punishable by
17 imprisonment pursuant to subdivision (h) of Section 1170 of the
18 Penal Code for two, three, or four years who, before or during an
19 election:
20   (a) Tampers with, interferes with, or attempts to interfere with,
21 the correct operation of, or willfully damages in order to prevent
22 the use of, a voting machine, voting device, voting system, vote
23 tabulating device, or ballot tally software program source codes.
24   (b) Interferes or attempts to interfere with the secrecy of voting,
25 except as provided in subdivision (b) of Section 14291, or ballot
26 tally software program source codes.
27   (c) Knowingly, and without authorization, makes or has in his
28 or her possession a key to a voting machine that has been adopted
29 and will be used in elections in this state.
30   (d) Willfully substitutes or attempts to substitute forged or
31 counterfeit ballot tally software program source codes.
32   SEC. 5. Section 18564.5 of the Elections Code is amended to
33 read:
34   18564.5. (a) The Secretary of State, Attorney General, and
35 any local elections official in the county in which the act occurs,
36 may bring a civil action against an individual, business, or other
37 legal entity that commits any of the following acts before, during,
38 or after an election:
39   (1) Tampers, interferes, or attempts to interfere with the correct
40 operation of, or willfully damages in order to prevent the use of,

1 a voting machine, voting device, voting system, vote tabulating
2 device, or ballot tally software.
3 (2) Interferes or attempts to interfere with the secrecy of voting,
4 except as provided in subdivision (b) of Section 14291, or interferes
5 or attempts to interfere with ballot tally software program source
6 codes.
7 (3) Knowingly, and without authorization, gains access to or
8 provides another person or persons with access to a voting machine
9 for the purpose of committing one of the acts specified by this
10 section.
11 (4) Willfully substitutes or attempts to substitute forged,
12 counterfeit, or malicious ballot tally software program source
13 codes.
14 (5) Knowingly, and without authorization, inserts or causes the
15 insertion of uncertified hardware, software, or firmware, for
16 whatever purpose, into a voting machine, voting device, voting
17 system, vote tabulating device, or ballot tally software.
18 (6) Fails to notify the Secretary of State prior to any change in
19 hardware, software, or firmware to a voting machine, voting device,
20 voting system, or vote tabulating device, certified or conditionally
21 certified for use in this state.
22 (b) A civil action may be brought pursuant to this section for a
23 civil penalty not to exceed fifty thousand dollars ($50,000) for
24 each act and for injunctive relief, if appropriate.

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