

**CHAPTER 176****(HB 26)**

AN ACT relating to the regulation of elections and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 117.235 is amended to read as follows:

- (1) No person, other than the election officers, challengers, and a minor child in the company of a voter, shall be permitted within the voting room while the vote is being polled, except for the purpose of voting or except by authority of the election officers to keep order and enforce the law. At the voter's discretion, a minor child in the company of a voter may accompany the voter into a voting booth or other private area provided for casting a vote.
- (2) No officer of election shall do any electioneering on election day.
- (3) No person shall, on the day of any election as established in KRS 118.025 **and on the days during which absentee voting is permitted under KRS 117.085(1)(c)**, do any electioneering at the polling place or within a distance of ~~three~~<sup>five</sup> hundred ~~(300)~~<sup>(500)</sup> feet of a county clerk's office or any entrance to a building in which a voting machine is located if that entrance is unlocked and is used by voters on election day, unless the fiscal court or legislative body of an urban-county, **charter county, or consolidated local** government, on a countywide basis, specifically prohibits electioneering on the day of any election by ordinance for a distance greater than ~~three~~<sup>five</sup> hundred ~~(300)~~<sup>(500)</sup> feet from the polling place. Electioneering shall include the displaying of signs, the distribution of campaign literature, cards, or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any **bona fide** candidate or **ballot** question ~~on the ballot~~ in a ~~any~~ manner **which expressly advocates the election or defeat of the candidate or expressly advocates the passage or defeat of the ballot question**, but shall not include exit polling. ~~Nothing contained in this section shall prohibit electioneering conducted within a private residence or establishment other than that in which the polling place is located by persons having an ownership interest in such property.~~
- (4) No voter shall be permitted to converse with others while in any room in which voting, including absentee voting, is conducted concerning their support or nonsupport of any candidate, party, or issue to be voted on, except as provided in KRS 117.255.
- (5) Any precinct election officer, county clerk, deputy county clerk, or any law enforcement official may enforce the election laws and maintain law and order at the polls and within ~~three~~<sup>five</sup> hundred ~~(300)~~<sup>(500)</sup> feet of any entrance to the building in which the voting machine is located if that entrance is unlocked and is used by voters. Assistance may be requested of any law enforcement officer.
- (6) Notwithstanding the provisions of subsection (1) of this section, the State Board of Elections may establish a program designed to instill in school children a respect for the democratic principles of voting by conducting in any county a mock election for school children in conjunction with any regular, primary, or special election. The State Board of Elections shall promulgate administrative regulations regarding the mock elections to insure that the regular voting process will not be impaired.

Section 2. Whereas a three-judge panel of the United States Court of Appeals for the Sixth Circuit, in the case of *Anderson v. Spear* 356 F.3d 651, 656-666 (6th Cir. 2004), held that the 500-

foot restriction on electioneering is unconstitutional and an immediate change to the law is necessary to conduct free and equal elections as required by Section 6 of the Kentucky Constitution, prevent voter intimidation and harassment, and prevent vote fraud throughout the Commonwealth for the upcoming general election, an emergency is declared to exist, and Section 1 of this Act shall take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Approved March 31, 2005.**