

ELECTIONS: Timely application for absentee ballot must be made.

September 20, 1938



Honorable O. A. Kamp  
Prosecuting Attorney  
Montgomery County  
Montgomery City, Missouri

Dear Sir:

We have received your letter of September 7, 1938, requesting an opinion of this Department, which reads as follows:

"I am writing your department for an opinion on Section 10182 R.S. 1929, Laws 1935, relative to application for absentee ballot. Said section provides 'that any elector expecting to be absent from the county of his residence on election day, may not more than thirty nor less than five days prior to the date of such election, make application in person or by mail, to the county clerk, for an official ballot for said precinct to be voted at such election.

What I would like to know, is whether or not there could be any arrangements made whereby a person who found that he had to be away from his home on election day, less than five days prior to said date, could obtain an absentee ballot to be voted at such election. It often happens that a person wishes to apply for a ballot, less than five days prior to the election, due to the fact that he was unexpectedly called away. I will thank you for your opinion on this matter."

Section 10182 as amended and contained in the Laws of Missouri 1935, page 264, provides as follows:

"Any elector as defined in the foregoing section expecting to be absent from the county of his residence on the day of such election may, not more than thirty nor less than five days prior to the date of such election, make application in person, or by mail, to the county clerk or, where existing, to the board of election commissioners, or other officer or officers charged with the duty of furnishing ballots for such election in his voting precinct, for an official ballot for said precinct to be voted at such election."

This statute provides in effect that if an elector expects to be absent from the county of his residence on election day he may make application in person or by mail "not more than thirty days nor less than five days prior to the date of such election" to the proper authorities for an official ballot for said precinct. By the express wording of the statute an elector is not entitled to receive, nor are the election officials authorized to give an absentee ballot unless the application therefor is made within the designated time limits. The fact that a person is unexpectedly called away from his precinct less than five days prior to an election cannot alter the matter. In other words an application for absentee ballot made thirty-one days or four days prior to an election day does not comply with the specific provisions of the law and the election officials are without authority to provide a ballot on such an untimely application.

Honorable O.A. Kamp

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CONCLUSION

An elector, in order to vote an absentee ballot, must make application therefor not more than thirty, nor less than five days prior to the date of the election. If timely application is not made the election officials are without authority to recognize the same or to provide the elector with a ballot.

Respectfully submitted,

J. F. ALLEBACH,  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney General

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