



Helping Voters Register Under Montana Law

Important: Voter registration drives in Montana have to follow certain state laws and rules, such as rules regarding mailing forms to potential applicants and a rule against payment or offering payment for voter registration. It is important to review **all** relevant information regarding voter registration drives before beginning a voter registration program.

About this guide: The guide is broken up into five parts: 1) Eligibility, 2) Frequently Asked Eligibility/Residency Questions, 3) Filling out an Application, 4) Voter Registration Deadline, and 5) Voter Registration Drive Rules. Voter Registration Drive laws and rules are often more complicated than the summary table used for quick reference, so, if appropriate, a more detailed explanation is below the table. Sometimes the detailed explanation may not answer all the questions. Therefore, as a best practice, Project Vote recommends that voter registration drive organizers meet with their local election officials before beginning their programs. Election officials may be able to clarify rules and may also have their own interpretation or perspective that you will want to understand when starting your drive.

Need assistance? Project Vote offers training in running voter registration programs and best practices. Contact us at (202) 546-4173, www.projectvote.org, info@projectvote.org.

PART 1: ELIGIBILITY

In Montana, an individual may register to vote if they are:

- A U.S. citizen;
- A resident of Montana and of the county in which they offer to vote for at least 30 days;
- At least 18 years of age.¹

A person convicted of a felony does not have the right to vote while serving a sentence in a penal institution.² A person adjudicated as mentally incapacitated does not have the right to vote unless legally restored to capacity.³

An elector who changes residence to a different county 30 days or less before an election may vote in person or by absentee ballot in the county where previously registered, or update her registration information and vote in the new county of residence subject to registration deadlines.⁴ An elector's age and the term of an elector's residence must be computed by including the day of election.⁵

An individual who is not eligible to register because of residence or age requirements but who will be eligible on or before Election Day may apply for voter registration subject to the verification procedures established by the secretary of state.⁶ However, individuals are not permitted to register until they attain U.S. citizenship.⁷

PART 2: FREQUENTLY ASKED ELIGIBILITY/RESIDENCY QUESTIONS:

Homeless Applicants: An elector must provide the election administrator with the elector's current street address, rural address, or, if neither of those addresses is available, other specific geographic location information from which the location of the elector's residence may be easily determined by the election administrator.⁸

Felony Convictions: A person convicted of a felony does not have the right to vote while serving a sentence in a penal institution.⁹

College Students: Montana law does not specifically address college students.

PART 3: FILLING OUT AN APPLICATION

Montana requires the following information for an application to be considered complete:¹⁰

- Checkboxes affirming citizenship status, age, and Montana residency status
- Full name
- Date of birth
- Montana Driver's License number, or if none, the last four digits of her Social Security number, or if the applicant has neither, a copy of a valid photo ID or other document with name and address (such as bank statements, utility bills, etc.)¹¹
- Montana residence address:
 - An elector must provide the election administrator with the elector's current street address, rural address, or, if neither of those addresses is available, other specific geographic location information from which the location of the elector's residence may be easily determined by the election administrator.¹²
- Mailing address, if different from street address
- Previous registration information (required if name changed or if previously registered to vote in another Montana county or another state)An affirmation under penalty of perjury that the information on the application is true, that the applicant a citizen of the United States, that the applicant will be at least 18 years old on or before the next election, that the applicant will have been a resident of Montana for at least 30 days prior to the next election, and that the applicant is not serving a felony conviction in a penal institution nor has been found to be of unsound mind by a court.
- Signature of applicant and date

PART 4: VOTER REGISTRATION DEADLINE

Registration applications not completed in person at county offices must be postmarked 30 days before any election in order to be eligible to vote in that election.¹³ Completed applications that are postmarked on or before the 30th day before the election must be accepted as regular registration for 3 days after registration is closed.¹⁴

Except for certain school elections, late in-person registration in county offices is also currently available through Election Day until the polls close, except between 12:00pm and 5:00pm on the day before Election Day,¹⁵ but in order to vote, late registrants who register under Montana Administrative Rule 44.3.2015 must receive in person and return an absentee ballot (in person or by mail, subject to applicable deadlines) to the location designated by the county election administrator.¹⁶

PART 5: SUMMARY OF STATE VOTER REGISTRATION DRIVE RULES

<i>Does the state require organizations conducting voter registration drives to register?</i>	No.
<i>Are there restrictions on getting voter registration forms?</i>	Montana law does not address this issue.
<i>Does the state have any restrictions on using pre-filled voter registration forms or other rules for mailing forms to potential applicants?</i>	Montana law does not address pre-filled forms, but there are rules regarding mailing applications, see details below question A.
<i>Does the state require any training in order to conduct voter registration drives?</i>	No.
<i>Does the state have restrictions on who may help others register to vote?</i>	No.
<i>Does the state have restrictions on paying drive workers, or additional rules related to payment?</i>	Montana law does not address that issue.
<i>Are there restrictions on the voter registration drive offering something of value to a person in exchange for completing a voter registration application?</i>	Yes, see details below, question B.
<i>Must the registration drive worker sign her name to the completed voter registration application, and/or must the drive or canvasser place other information on applications?</i>	No.
<i>Does the state have a rule requiring a receipt or other tracking information to be provided to the applicant?</i>	No.

<i>Are voter registration groups prohibited from putting identifying marks on completed voter registration applications or subject to other rules regarding information added to registration applications?</i>	Montana law does not address that issue.
<i>Are there restrictions on copying completed voter registration applications prior to submitting them to the election official, or other restrictions on data entry or disclosure?</i>	Montana law does not address this issue. However, the election official must ensure that the driver's license number or last four digits of the Social Security number remains private and accessible only by authorized county election officials and, when applicable, by the authorized staff of the office of the Secretary of State. ¹⁷
<i>Is there a time limit for voter registration groups to submit the voter registration applications they collect, or other rules regarding submission of applications?</i>	Montana law does not address time limits, however an application must be turned in by 30 days before the deadline for the person to vote in the election without having to register in person at county offices. ¹⁸ There is also a law requiring mailed applications to be mailed to the county election administrator in the applicant's county, see details below, question C.
<i>What are the consequences for failing to submit applications as required by law?</i>	Montana law provides that a person who knowingly violates a provision of the election laws of Montana for which no other penalty is specified is guilty of a misdemeanor. ¹⁹
<i>If an application is incomplete, may the voter registration drive write the missing information on the application with the applicant's consent?</i>	Montana election law does not address this issue. However, a person who mutilates, secretes, destroys or alters election records, except as provided by law, is guilty of criminal mischief or tampering with public records and information, as appropriate. ²⁰
<i>How will an applicant know whether the election official received the application?</i>	Applicants will receive notice, see below question D.
<i>How may an applicant correct an incomplete application after it has been submitted to election officials?</i>	Applicants may be designated a provisionally registered elector or assigned a pending status depending on the information missing, see details below, question E.
<i>Who investigates and enforces the state rules?</i>	The Secretary of State is responsible for the application, operation, and uniformity of state election laws (except specified chapters including criminal penalty provisions). ²¹

State Voter Registration Drive Rules: Detailed Explanations

BEFORE THE DRIVE

A. *Does the state have any restrictions on using pre-filled voter registration forms or other rules for mailing forms to potential applicants?*

Montana law does not address pre-filled forms. A person, other than an election official, who is supporting an organized effort to register voters or assist voters in applying for absentee ballots, may not mail a voter registration or absentee ballot application in the same envelope as campaign literature if the envelope is marked to resemble a mailing from an election office.²² In addition, a person, other than an election official, who is supporting an organized effort to register voters or assist voters in applying for absentee ballots may not mail or advise an applicant to mail a voter registration or absentee ballot application to any address other than the county election administrator's address in the applicant's county of residence.²³

Montana law provides that a person who knowingly violates a provision of the election laws of Montana for which no other penalty is specified is guilty of a misdemeanor.²⁴

B. *Are there restrictions on the voter registration drive offering something of value to a person in exchange for completing a voter registration application?*

Federal law states that whoever "pays or offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than \$10,000 or imprisoned not more than five years."²⁵ At least one federal appellate court has interpreted "payment" as "intended to include forms of pecuniary value offered or given directly to an individual voter, and indicated the value should be based on "an assessment of the monetary worth of an item from the perspective of the voter receiving the item." That case held that food vouchers could be "payment."²⁶

Another example is California's Secretary of State's interpretation of the federal law to mean that "Any type of incentive is considered 'payment,' even things as seemingly innocent as cookies or admission to an entertainment event."²⁷

DURING THE DRIVE

C. *Is there a time limit for voter registration groups to submit the voter registration applications they collect or other rules regarding submission of applications?*

Montana law does not address time limits, however an application must be turned in by 30 days before the deadline for the person to vote in the election without having to register in person at county offices.²⁸ In addition, a person, other than an election official, who is supporting an organized effort to register voters may not mail or advise an applicant to mail a voter registration application to any address other than the county election administrator's address in the applicant's county of residence.²⁹

Montana law provides that a person who knowingly violates a provision of the election laws of Montana for which no other penalty is specified is guilty of a misdemeanor.³⁰

D. *How will an applicant know whether the election official received the application?*

The election administrator must mail each applicant a notice confirming registration and the location of the elector's polling place. If the notice is returned as undeliverable, the election administrator must investigate the reason for the return of any mailed notices and mail a confirmation notice to the elector.³¹

E. How may an applicant correct an incomplete application after it has been submitted to election officials?

An applicant for voter registration who does not provide the applicant's driver's license number, the last four digits of the applicant's social security number, or other form of identification required, must be registered as a "provisionally registered elector" pending receipt and verification, at any time up to and including on Election Day, of one of the required numbers or, if the applicant has not been issued either number, receipt of a form of identification required.³² If an applicant does not provide all required information and the election administrator is unable to obtain that information, except for the citizenship, age, and residency checkboxes, the applicant may be entered as "pending - incomplete" status in the statewide voter registration system until the required information is provided.³³

F. Who is responsible for investigating and enforcing the state rules?

The Secretary of State is responsible for the application, operation, and uniformity of state election laws (except specified chapters including criminal penalty provisions).³⁴

WEB PAGE OF STATUTE

http://leg.mt.gov/bills/mca_toc/13.htm

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DISCLAIMER

The information contained in this document is for general guidance only. It should not be used as a substitute for consultation with professional legal or other competent advisers. Project Vote is not responsible for any errors or omissions, or for the results obtained from the use of this information.

¹ Mont. Code Ann. § 13-1-111(1)

² Mont. Code Ann. § 13-1-111(2)

³ Mont. Code Ann. § 13-1-111(3)

⁴ Mont. Code Ann. § 13-2-514(2)-(3)

⁵ Mont. Code Ann. § 13-1-114

⁶ Mont. Code Ann. § 13-2-205

⁷ Mont. Code Ann. § 13-2-206

⁸ Mont. Code Ann. § 13-2-208(1)

⁹ Mont. Code Ann. § 13-1-111(2)

¹⁰ Montana Voter Registration Form, *available at*

<http://sos.mt.gov/ELECTIONS/Officials/Forms/documents/Voter-Registration-Application.pdf> (last visited Mar. 14, 2016); Mont. Admin. R. 44.3.2005(1)

¹¹ Mont. Code Ann. § 13-2-110

¹² Mont. Code Ann. § 13-2-208(1)

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- ¹³ Mont. Code Ann. § 13-2-301(1)(a)
- ¹⁴ Mont. Code Ann. § 13-2-301(3)
- ¹⁵ Mont. Code Ann. § 13-2-304; Montana Secretary of State, Montana Voter Information, <http://sos.mt.gov/elections/Vote/index.asp> (last visited Mar. 14, 2016).
- ¹⁶ Mont. Admin. R. 44.3.2015
- ¹⁷ Mont. Admin. R. 44.3.2005(2)(b)
- ¹⁸ Mont. Code Ann. § 13-2-301(1)(a)
- ¹⁹ Mont. Code Ann. § 13-35-103
- ²⁰ Mont. Code Ann. § 13-35-206
- ²¹ Mont. Code Ann. § 13-1-201
- ²² Mont. Code Ann. §§ 13-35-603, 13-35-602
- ²³ Mont. Code Ann. §§ 13-35-604, 13-35-602
- ²⁴ Mont. Code Ann. § 13-35-103
- ²⁵ 52 U.S.C. § 10307(c)
- ²⁶ *United States v. Garcia*, 719 F.2d 99, 102-103 (5th Cir. 1983).
- ²⁷ California Secretary of State, *Guide to Voter Registration Drives* 11 (last revised Jan. 2016), available at <http://www.sos.ca.gov/elections/guides/guide-to-vr-drives.pdf>.
- ²⁸ Mont. Code Ann. § 13-2-301(1)(a)
- ²⁹ Mont. Code Ann. §§ 13-35-604, 13-35-602
- ³⁰ Mont. Code Ann. § 13-35-103
- ³¹ Mont. Code Ann. § 13-2-207
- ³² Mont. Admin. R. 44.3.2005(3)
- ³³ Mont. Admin. R. 44.3.2005(4)
- ³⁴ Mont. Code Ann. § 13-1-201