

Bill No. 212 of 2022

THE REPRESENTATION OF THE PEOPLE (AMENDMENT)
BILL, 2022

By

SHRI KUNWAR DANISH ALI, M.P.

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BILL

further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2022.

(2) It shall come into force on such date as the Central Government may, by
5 notification in the Official Gazette, appoint.

Amendment of
section 58.

2. In section 58 of the Representation of the People Act, 1951 (hereinafter referred to as the principal Act),—

(a) in sub-section (1), clause (aa) shall be omitted; and

(b) in sub-section (2), in clause (b), the words " the mechanical failure of the voting machine or" shall be omitted.

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Omission of
section 61A.
Amendment of
section 135A.

3. Section 61A of the principal Act shall be omitted.

4. In section 135A of the principal Act, in sub-section (1), in the Explanation,—

(a) in para (a), the words "or voting machines" shall be omitted; and

(b) in para (d), the words "or voting machines" shall be omitted.

Amendment of
section 169.

5. In section 169 of the principal Act, in sub-section (2),—

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(a) clause (ee) shall be omitted;

(b) clause (gg) shall be omitted; and

(c) in clause (h), the words "voting machines," shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Free and fair elections are vital for the democratic values of any nation. It includes fair, accurate and transparent election process that can be independently verified. The traditional voting system accomplishes many of these goals. Electronic Voting Machine (EVM) are prone to errors and several countries in the world have stopped using EVMs as doubts have been raised about its veracity. Electronic Voting Machines should be replaced with traditional ballot papers in our country also. Voting through ballot papers is a more reliable and transparent method for the election process of any country. EVMs can be tampered with during manufacturing process itself and in such cases there is no need for any hacker or rigger to tamper with the actual voting. No machine in the world is hundred percent free from errors. Questions about the reliability of Electronic Voting Machines have been continuously raised.

Therefore, voting machines should be replaced with more reliable system of vote through ballot papers so that free and fair elections are conducted in the country and the public's faith in the democracy remains intact.

Hence this Bill.

NEW DELHI;

KUNWAR DANISH ALI

11 *August*, 2022.

ANNEXURE

EXTRACT FROM THE REPRESENTATION OF THE PEOPLE ACT, 1951

(43 OF 1951)

Fresh poll in the case of destruction, etc., of ballot boxes.

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58. (1) If at any election,—

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(aa) any voting machine develops a mechanical failure during the course of the recording of votes; or

(2) Thereupon the Election Commission shall, after taking all material circumstances into account; either—

* * * *

(b) if satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election or that 5 [the mechanical failure of the voting machine or] the error or irregularity in procedure is not material, issue such directions to the returning officer as it may deem proper for the further conduct and completion of the election.

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Voting machines at elections.

61A. Notwithstanding anything contained in this Act or the rules made thereunder, the giving and recording of votes by voting machines in such manner as may be prescribed, may be adopted in such constituency or constituencies as the Election Commission may, having regard to the circumstances of each case, specify.

Explanation.—For the purpose of this section, "voting machine" means any machine or apparatus whether operated electronically or otherwise used for giving or recording of votes and any reference to a ballot box or ballot paper in this Act or the rules made thereunder shall, save as otherwise provided, be construed as including a reference to such voting machine wherever such voting machine is used at any election.]

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Offence of booth capturing.

135A. (1)* * * *

Explanation.— For the purposes of [this sub-section and section 20B], "booth capturing" includes, among other things, all or any of the following activities, namely:—

(a) seizure of a polling station or a place fixed for the poll by any person or persons, making polling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of elections;

* * * *

(d) seizure of a place for counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes;

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169. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

Power to
make rules.

(*ee*) the manner of giving and recording of votes by means of voting machines and the procedure as to voting to be followed at polling stations where such machines are used;

(*gg*) the procedure as to counting of votes recorded by means of voting machines;

(*h*) the safe custody of ballot boxes, voting machines, ballot papers and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers;

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further to amend the Representation of the People Act, 1951.

(Shri Kunwar Danish Ali, M.P.)