

STATUTES:
REVISION BILLS GO INTO
EFFECT NOVEMBER 1:

Laws not revision measures and passed
without an emergency clause go into
effect ninety days after adjournment.

August 18, 1939

8-23



Honorable Dwight H. Brown
Secretary of State
Jefferson City, Missouri

Dear Sir:

This department is in receipt of your request for
an official opinion which reads as follows:

"The recent General Assembly was
what is commonly called a revision
session. Many bills were passed
which were called revision bills.
The statutes provide that a regular
bill, approved by the Governor,
becomes effective in ninety days
following the close of the session.
In the case of revising the statutes,
such statutes do not go into effect
until the first of November.

"What we want to know, are these
bills which are referred to as
revision bills, effective in ninety
days following the session, or as
revision bills will they go into
effect on November 1?"

Article IV, Section 41 of the Constitution of Mis-
souri, adopted November 8, 1932, provides as follows:

"In the year 1939 and every ten
years thereafter all the statute
laws of a general nature, both
civil and criminal, shall be
revised, digested and promul-
gated in such manner as the
General Assembly shall direct.

Provided, that after the expiration of 70 days of such revision sessions no measure other than appropriation bills and such bills as the General Assembly may determine by an express statement therein contained to be revision bills shall be considered by the General Assembly, except such as may be recommended by special message to its consideration by the Governor. Provided, further, that all revision bills shall take effect and be otherwise considered as are other bills."

Since the above amendment provides that all revision bills shall take effect and be otherwise considered as are other bills, we must ascertain what provisions have been enacted relating to the time that legislative bills shall take effect. Article IV, Section 36 of the Constitution of Missouri provides as follows:

"No law passed by the General Assembly, except the general appropriation act, shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted, unless in case of an emergency (which emergency must be expressed in the preamble or in the body of the act), the General Assembly shall, by a vote of two-thirds of all the members elected to each house, otherwise direct; said vote to be taken by yeas and nays, and entered upon the journal."

Section 659, R. S. Missouri, 1929, reads in part as follows:

"A law passed by the general assembly shall take effect ninety days after the adjournment of the session at which it is enacted, * * * * *"

However, as pointed out in State ex rel. Brunjes v. Bockelman, 240 S. W. 209, 211:

"The Missouri Constitution (1875, section 36 of article 4) places no inhibition upon the Legislature as to fixing a future date for a law to become effective. It prohibits them from becoming effective upon their passage and approval, except in excepted cases. * * * * *

59 Corpus Juris, p. 1140, section 674, establishes the same rule when it states:

"* * * * * A constitutional provision requiring that, with specified exceptions, all statutes shall go into effect a designated number of days after the adjournment of the session of the legislature passing such statutes is not violated by a statute which expressly provides that it shall go into effect at a date subsequent to the expiration of the designated number of days."

Therefore, the Legislature may provide that certain statutes may go into effect at a date more than ninety days after adjournment.

Senate Bill No. 331, Section 691, passed by the 1939 General Assembly provides as follows:

"The Revised Statutes, as declared by this article shall take effect and go into operation on the first day of November, 1939, except such laws passed by the present assembly and incorporated therein as shall by their provision take effect at a different time."

This statute was enacted by the Legislature that

passed the revision bills and provides that all revision bills shall take effect on November first. It was passed with an emergency clause and went into effect July 8, 1939. Such a statute is proper. In *State ex rel. Otto v. Kansas City*, 276 S. W. 389, Judge Atwood, speaking for the Supreme Court, said:

"The time a particular statute shall take effect may be fixed by another statute passed at the same session."

The reason for this postponement is given in *Price v. Hopkin*, 13 Mich. 318, l.c. 326, in which Judge Cooley, then a member of the Michigan Supreme Court, said:

"* * * * And when the Legislature, for reasons satisfactory to them, decide to postpone the period for the statute to come into operation to a later period, it is to be presumed, nothing appearing to the contrary, that in the particular case it was deemed important that more time be allowed for citizens to ascertain the proposed changes, and to become acquainted with their bearings. The time thus allowed is the reasonable time fixed by the Legislature to bring knowledge of the law home to parties interested, before they are required to govern their actions by it."

The question of when a statute passed at a revising session takes effect has been a point of contention and discussion in many cases in Missouri. The leading case upon this question is that of *State v. Schenk*, 238 Mo. 429, 142 S. W. 263. The court said:

"It appears from the foregoing that during the entire period from 1879 to the present, the statutes have contained both the section which provides that all laws, without an

emergency clause, shall go into effect in ninety days after the adjournment of the session, and the provision of the declaratory act that the Revised Statutes shall go into effect on November 1, except acts passed by the revising session which provide otherwise by their terms.* * * * *

"* * * We think it apparent, however, considering the language of the Constitution, and all of the proceedings of the various revising sessions, that the theory adopted was that the revision of the statutes had reference to existing laws, and that no new bill passed at a revising session should be regarded as a revision bill; also, that it was understood and contemplated by the Legislature at these various revising sessions that such new bills, notwithstanding the language of the declaratory act, should go into effect, as provided by law and as contemplated by the Constitution, ninety days after adjournment.
* * * * *

"* * * * It has not been held, so far as we are advised, that acts which are not revision acts do not go into effect until November 1. On the contrary, it has been uniformly recognized that such acts go into operation ninety days after the adjournment of the Legislature."

The court then proceeds to cite the following cases in which new statutes passed at a revising session went into effect ninety days after adjournment. These cases are: State ex rel. v. Mason, 153 Mo. 223, 54 S.W. 524; State ex rel. v. Mason, 155 Mo. 493, 55 S. W. 636; State ex rel. Kenamore v. Wood, 155 Mo. 425, 56 S. W. 474; State ex rel. Fath v. Henderson, 160 Mo. 190, 60 S. W. 1093; State ex rel. v. Aloe, 152 Mo. 475, 54 S. W. 494; State ex rel. v. Withrow, 154 Mo. 402, 55 S. W. 460;

ex Parte Lucas, 160 Mo. 216, 60 S. W. 218; State ex inf. v. Washburn, 167 Mo. 680, 67 S. W. 592. To this list may be added Hollowell v. Schuyler Co., 185 S. W. (2d) 498, 322 Mo. 1230 and State ex rel. State Highway Commission v. Thompson, 19 S. W. (2d) 642, 323 Mo. 742.

On the other hand the court points out that the bills in the cases of Haskell v. Sells, 14 Mo. App. 91; State v. Edwards, 136 Mo. 360, 38 S. W. 73, and Hausen v. Insurance Co., 66 Mo. App. 29, were all revision bills and not new acts and, therefore, went into effect November the first.

The holding in the Schenk case, supra, was affirmed in State v. Bird, 286 Mo. 593, 228 S. W. 751, in which Judge Higbee, speaking for the Supreme Court said at l.c. 752:

"The act of May 27, 1919, abolishing all the degrees of manslaughter and fixing the punishment (section 3245) is an original act, and not a revision. There is an apparent conflict between sections 7062 and 7095, R. S. 1919, as to the time when an act passed at a revising session takes effect. This identical question was thoroughly considered by this division in State v. Schenk, 238 Mo. 429, 142 S. W. 263. According to the ruling in that case, the act in question, being an original act having no emergency clause, became effective 90 days after the adjournment of the session--that is, on August 7, 1919. * * * "

Colligating the authorities quoted above, an original act having no emergency clause passed at a revising session goes into effect ninety days after the adjournment of the session while a revision bill goes into effect November the first.

Hon. Dwight H. Brown

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CONCLUSION.

It is, therefore, the opinion of this department that revision bills shall take effect and go into operation from and after the first day of November, except such acts as passed by the General Assembly, and incorporated therein as by their provisions take effect at a different time.

It is further the opinion of this department that laws not revision measures and passed without emergency clauses go into effect ninety days after the adjournment of the session.

Respectfully submitted

ARTHUR O'KEEFE
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