

STATUTES:  
REVISION BILLS:

House Bill No. 16 passed by the 60th General  
Assembly goes into effect November 1, 1939.

October 24, 1939

Mr. W. A. Holloway  
Chief Clerk  
Office of the State Auditor  
Jefferson City, Missouri



Dear Sir:

The question submitted is, what is the effective date of House Bill No. 16, page 329, Laws of Missouri, 1939? Or, to put the question in another way, does the bill become effective ninety days after the adjournment of the legislature, or on November 1, 1939?

A correct answer to this question requires the consideration of the constitutional and statutory provisions on the subject.

The Constitution provides (Section 36, Article IV) 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."

So the Constitution does not decide the question.

Applying the general rule that the legislature of the State of Missouri can pass any rule or law not repugnant to either the Federal or State Constitution, it would appear that the legislature could make a law effective any date it saw fit, provided that date was ninety days or more after the adjournment of the legislature.

An examination of the statute law on the subject reveals that there are two articles which might throw some light on the question: Article III of Chapter IV, entitled "Authentication, taking effect, and repeal of statute," and Article V of Chapter IV, entitled "Revised Statute for 1929."

The 60th General Assembly reenacted Section 659 as contained in Article III, the only change being that the figures "1929" are changed to "1939", and reenacted Section 691 which is contained in Article V, making only the same change.

It would appear that Section 659 is the controlling statute, not Section 691, for the reason that Section 659 is contained in Article III which particularly deals with the subject of when a law shall take effect; whereas, Section 691 is contained in Article V, which deals with revision matters. Said Section 659 reads 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, subject to the following exceptions:

"(a) A law necessary for the immediate preservation of the public peace, health or safety, which emergency must be expressed in the body or preamble of the act and which is declared to be thus necessary by the general assembly, by a vote of two-thirds of its members elected to each house, said vote to be taken by yeas and nays, and entered on the journal, or a law making an appropriation for the current expenses of the state government, for the maintenance of the state institutions or for the support of public schools, shall take effect as of the hour and minute of its approval by the governor; which hour and minute may be endorsed by the governor on the bill at the time of its approval.

"(b) In case the general assembly, as to a law not of the character hereinbefore specified, shall provide that such law shall take effect on a date in the future subsequent to the expiration of the period of ninety days hereinbefore mentioned, said law shall take effect on the date thus fixed by the general assembly.

"(c) Laws not of the nature hereinbefore specified enacted by the general assembly at its regular session in 1939 and each ten-year period thereafter, and except as otherwise provided by law, the Revised Statutes of 1939 and each ten-year period thereafter, shall take effect on the first day of November in the year of their enactment or authorization: provided, that unless suspended under the referendum or unless otherwise provided by law, laws changing the time of holding court shall take effect in ninety days after the adjournment of the session at which such laws may have been enacted."

Section 691 reads 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 general assembly and incorporated therein as shall by their provision take effect at a different time."

Similar statutes have appeared in our books since 1877 and 1879, respectively.

Throughout the years, up until the present time, Section 691 has remained practically unchanged. In 1919 (see Laws 1919, Page 485) there was added the clause, "Laws changing the time of holding court shall take effect in ninety days, etc." This clause was dropped in 1929 (see Laws 1929, Page 247), and has not again been incorporated in the section (see Laws of 1939, Page 483).

However, a very important change was made in Section 659 in 1929 (see Laws 1929, Page 247), and that change has carried forward in the Laws of 1939 (see Laws of 1939, Page 478). Prior to the change made in 1929 this section was Section 7062, Laws of 1919, and read as follows:

"Sec. 7062. All laws passed by the general assembly, except the general appropriation act, shall take effect and go into force ninety days after the adjournment of the session at which they are enacted, unless in case of emergency, which emergency shall be set forth in the body of the act, the general assembly shall, by a vote of two-thirds of all its members elected to each house, otherwise direct--said vote to be taken by yeas and nays and entered upon the journal."

So far as our research reveals, the Supreme Court of Missouri has not passed upon the question of effective dates since this important change was made in 1929. That court did have before it the question in *State vs. Schenk*, 238 Mo. 429, 142 S. W. 263, and considered Sections 8094 and 8061, R. S. of 1909 (now Sections 659 and 691, respectively), and held that such a law went into effect ninety days after the adjournment of the legislature. It also had the same question before it in *State vs. Byrd*, 286 Mo. 593, 223 S. W. 751, and had before it for consideration Sections 7062 and 7095, R. S. 1919 (now Sections 659 and 691, respectively), and held that a law such as this went into effect ninety days after adjournment of the legislature. However, when those cases were decided the important exception contained in subsection "(c)" was not a part of the law, which said sub-section "(c)" reads as follows:

"(c) Laws not of the nature hereinbefore specified enacted by the general assembly at its regular session in 1939 and each ten-year period thereafter, and except as otherwise provided by law, the Revised Statutes of 1939 and each ten-year period thereafter, shall take effect on the first day of November in the year of their enactment or authorization: provided, that unless suspended under the referendum or unless otherwise provided by law, laws changing the time of holding

court shall take effect in ninety days after the adjournment of the session at which such laws may have been enacted."

Hence, the decisions of the Supreme Court in the two cases cited, while helpful, are not conclusive or decisive of the question before us. The question involves the interpretation of Section 659 with sub-section "(c)" in it.

Article II of Chapter 4, R. S. 1929, treats of the construction of the statute. In this article is Section 655 which, among other things, declares that "words and phrases shall be taken in their plain or ordinary and usual sense, but technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import."

There are also certain other well established rules of interpretation which require no citation of authorities, among such rules being the following:

- (a) That all parts of a statute must be given force and effect, if possible.
- (b) That apparent contradictions and repugnant sections must be construed together and reconciled, if possible.
- (c) To the extent of any necessary repugnancy between them the special will prevail over the general statute.

Under this last rule, if there is any repugnancy between Section 659 and Section 691, the provisions of Section 659 must prevail because it is the particular article which deals with the effective date of statutes.

Applying these rules to the interpretation of Section 659, we find that the first clause is 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, subject to the following exceptions."

So unless House Bill No. 16 comes within one of the exceptions named, it became effective ninety days after the adjournment of the legislature. However, we find exception "(c)",

which, among other things, contains the following: "Laws not of the nature hereinbefore specified enacted by the General Assembly at its regular session in 1939 \* \* \* shall take effect the first day of November in the year of their enactment or authorization." The clause "Laws not of the nature hereinbefore specified" undoubtedly refers to sub-sections "(a)" and "(b)". Sub-section "(a)" refers only to the emergency acts and appropriation acts. Sub-section "(b)" refers only to laws which contain within themselves a specified effective date subsequent to the ninety-day period. House Bill No. 16 does not come under either classification.

So we are forced to the conclusion that if any force or effect is to be given to the first clause of sub-section "(c)" that House Bill No. 16, as well as all other bills passed by the 60th General Assembly and not included in sub-sections "(a)" and "(b)", becomes effective November 1, 1939, and not ninety days after the adjournment of the legislature.

Respectfully submitted

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APPROVED:

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