

LEGISLATURE: Laws enacted by the 1941 Legislature and approved by the Governor without an emergency clause go into effect October 10, 1941.

July 31, 1941

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



Dear Sir:

We are in receipt of your request for an opinion from this department under date of July 28, 1941, which reads as follows:

"Please give us an official opinion regarding the date on which laws passed by the 1941 General Assembly without an emergency clause, and approved by the Governor, become effective."

Article IV, Section 36 of the Constitution of Missouri reads 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."

This section is purely prohibitory, and we find that the Legislature has enacted Section 659, R. S. Mo. 1939, which is consistent with the above section of the Constitution and gives all legislation positive effect ninety days after adjournment of the enacting session.

Section 659, R. S. Mo., 1939, 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

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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."

It is obvious from the foregoing statute that laws passed by the Sixty-first General Assembly without an emergency clause, and which do not in themselves fix a later effective date, become effective ninety days after adjournment after approval by the Governor. The House and Senate Journals disclose that the Legislature adjourned July 12, 1941.

Section 655, R. S. Mo. 1939, contains several rules for the construction of statutes, among which we find the following:

" * * * fourth, the time within which an act is to be done shall be compute by excluding the first day and including the last, if the last day be Sunday it shall be excluded; * * * "

Applying this rule of construction, the bills mentioned by you will become effective October 10, 1941.

CONCLUSION

It is therefore the opinion of this department that laws enacted by the Sixty-first General Assembly, which have been approved by the Governor and do not bear an emergency clause, become effective October 10, 1941, unless a later effective date is fixed in any of such laws.

Respectfully submitted,

APPROVED:

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