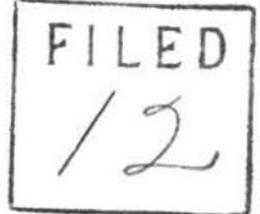


August 31, 1943



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

Dear Sir:

In response to numerous requests concerning the effective dates of acts passed by the 62nd General Assembly we submit the following opinion on the general subject:

During the session of the 62nd General Assembly, held in Jefferson City, beginning in January, 1943, there was a Concurrent Senate Resolution presented (Resolution No. 2) which recommended and resolved that an amendment to the Constitution be made declaring that no law passed by the General Assembly should become effective until ninety days after the signing of such laws by the Governor of this State. This Resolution was presented in the form of an Amendment to the Constitution on April 6, 1943, to the electorate, and the same adopted. Said Amendment provides as follows:

"Amendment repealing Section 36, Article IV, Missouri Constitution, and enacting new section providing effective date of laws of General Assembly, except appropriation acts and emergency acts.

"JOINT AND CONCURRENT RESOLUTION submitting to the qualified voters of the state of Missouri and amendment repealing Section 36, of Article IV of the Constitution of Missouri and enacting in lieu thereof a new section relating to the same subject establishing the effective date of laws, to be known as Section 36 of Article IV.

"Be it resolved by the Senate, the House of Representatives concurring therein:

"That at a special election to be called by the Governor for that purpose, or at the general election, to be held in this

state on the first Tuesday after the first Monday of November in the year 1944, there shall be submitted to the qualified voters of this state for adoption or rejection a proposition to repeal Section 36 of Article IV of the Constitution of Missouri relating to the effective date of laws, and to enact in lieu thereof a new section relating to the same subject matter to be known as Section 36 of Article IV and to read as follows:

"Section 36. No law passed by the General Assembly, except appropriation acts, shall take effect or go into force until ninety days after enactment and approval thereof as otherwise provided by this Article, 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. Mo. 1939, 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:

"(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."

At first glance it might appear that the constitutional amendment above quoted provides that the laws are to become effective after ninety days from the date of enactment and approval thereof. However, after careful examination thereof, it will be noted that said law is negative in character providing that "no law passed by the General Assembly \* \* \* \* shall take effect or go into force until \* \* \* \*."

If the lawmakers had intended said act to be affirmative in character it would have been simple to have it read "All laws passed by the General Assembly \* \* \* \* shall take effect or go into effect ninety days after enactment and approval thereof \* \* \* \*"

It is true that Section 659, supra, is somewhat a repetition of Section 36, of the Constitution as it existed prior

to the adoption of the amendment wherein quoted, but if the legislature intended that said act should be repealed, it probably would have acted on said intent and repealed said statute. In fact, House Bill 652 was perfected in the house during the 62nd General Assembly but failed to be enacted, which bill purposed to repeal said Section 659, and to enact a new Section in lieu thereof. This fact indicates that the present force and effect of said Section 659 was known to the Legislature.

It was held in the case of *Reed v. Goldneck*, 112 Mo. App. 310, 86 S. W. 1104, that it must be presumed that the Legislature knows the existing law.

It has been repeatedly held that laws are presumed to be drafted with knowledge of all existing laws on the subject. *Sikes v. St. Louis and S. F. R. Co.*, 127 Mo. App. 326, 105 S. W. 700. *State ex rel. Case v. Wilson*, 151 Mo. App. 723, 132 S. W. 625.

In construing a statute, all statutes applicable to the same subject involved must be read and construed together and, if possible, harmonized. *State v. Naylor*, 328 Mo. 335, 40 S. W. (2d) 1079.

When statutes appear to be in conflict they must be harmonized if possible, according to legislative intent. *Cotes & Hopkins Realty Co. v. Kansas City Terminal Ry. Co.*, 328 Mo. 1118, 43 S. W. (2d) 817.

In construing statutes in *pari materia*, endeavor should be made, by tracing history of legislation on the subject, to ascertain uniform and consistent purpose of legislature, or to discover how policy of legislature with reference to subject matter has been changed or modified from time to time. *State ex rel. and to Use of Geo. B. Peck Co. v. Brown*, 105 S. W. (2d) 909, 340 Mo. 1189.

In construing statutes in *pari materia*, not only acts passed at same session of legislature, but also acts passed at prior and subsequent sessions, and even those which have been repealed, may be considered. *State ex rel. and to Use of Geo. B. Peck Co. v. Brown*, 105 S. W. (2d) 909, 340 Mo. 1189.

It is not difficult to harmonize Section 36 of the Constitution as amended and Section 659, R. S. Mo. 1939. Said Section 36 of the Constitution, as amended, would allow all bills to take effect or go into force ninety days from the date of enactment and approval, if there were no statutory provision setting the effective time at a later date, namely: ninety days

after the adjournment of the session at which enacted.

The 62nd General Assembly adjourned on August 23, 1943, and ninety days from said date would be November 21, 1943. However, November 21, being Sunday, the ninety-day period would not expire until November 22nd under the provisions of Section 655, R. S. Mo. 1939, which is as follows:

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

Section 38, Article IV of the Missouri Constitution is as follows:

"When the bill has been signed, as provided for in the preceding section, it shall be the duty of the Secretary of the Senate, if the bill originated in the Senate, and of the Chief Clerk of the House of Representatives, if the bill originated in the House, to present the same in person, on the same day on which it was signed as aforesaid, to the Governor, and enter the fact upon the journal. Every bill presented to the Governor, and returned within ten days to the house in which the same originated, with the approval of the Governor, shall become a law, unless it be in violation of some provision of this Constitution."

Section 12, Article V of the Missouri Constitution is as follows:

"The Governor shall consider all bills and joint resolutions, which, having been passed by both houses of the General Assembly, shall be presented to him. He shall, within ten days after the same shall have been presented to him, return to the house in which they respectively originated, all such bills and joint resolutions, with his approval

indorsed thereon, or accompanied by his objections: Provided, That if the General Assembly shall finally adjourn within ten days after such presentation, the Governor may, within thirty days thereafter, return such bills and resolutions to the office of the Secretary of State, with his approval or reasons for disapproval."

It will be noted that Section 36, Article IV of the Missouri Constitution, as amended, specifically provides an act may take effect less than ninety days after its passage and approval if it carries an emergency clause, and Section 659, R. S. Mo. 1939 also provides exceptions to the general provision that acts shall take effect ninety days after adjournment of the session. If an act is not signed by the Governor until after the session has adjourned, under the provisions of Section 12, Article V of the Constitution, the act would become effective ninety days after approval thereof. In such a case, Section 36 of the Constitution, as amended, operates to extend the effective date to a period beyond the date fixed by Section 659, supra.

#### CONCLUSION

Any bill which contains a clause that falls within the exceptions in Section 36, Article IV of the Constitution, as amended, and the exceptions set out in Section 659, R. S. Mo. 1939, will become effective immediately upon the enactment and approval of such act.

Any act enacted and approved prior to the adjournment of the Legislature which contains no emergency coming within the exceptions of said Section 36, Article IV of the Constitution, as amended, will be controlled by said Section 659, R. S. Missouri 1939, and will become effective ninety days after the adjournment of the session at which it is enacted and approved; except an act approved by the Governor after the adjournment of the session of the legislature will not become effective, under the provisions of Section 36, Article IV of the Constitution of Missouri, as amended, until ninety days after approval thereof by the Governor.

Respectfully submitted

APPROVED:

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LAP:DA