

partment by your Mr. G. E. Strauss, shortly after the submission of such forms for my approval.

I have made such changes in the forms submitted by you as I deemed essential, and have entirely rewritten the same; and it is deemed unnecessary specifically to indicate the changes made, which can be ascertained by a comparison of the forms submitted and the forms approved.

In accordance with your request I am also herewith transmitting a form of "Release of Part of Premises from Lien of Mortgage," designated "R/W Form 8, Mortgage Release."

Respectfully,
EDWARD C. TURNER,
Attorney General.

526.

EFFECTIVE DATE OF SULLIVAN BILL PROVIDING FOR AN ADDITIONAL GASOLINE TAX.

SYLLABUS:

In the event the Governor fails to take action thereon prior to such date, House Bill No. 206 will be a law from May 24, 1927, i. e., at 12:01 o'clock A. M. May 25, 1927.

COLUMBUS, OHIO, May 24, 1927.

The Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—This will acknowledge your communication of today as follows:

"Will you please advise this Commission when, in your opinion, House Bill No. 206 will become a law in the event the Governor allows the same to become a law without his signature?"

It is our understanding that House Bill No. 206 reached the office of the Governor on May 12, 1927."

House Bill 206 provides for the levy of an additional gasoline excise tax. Since it provides for a tax levy, it is not subject to the referendum. This is by reason of the specific provision of Section 1d of Article II of the Constitution of Ohio, as follows:

"Laws providing for tax levies, appropriations for the current expenses of the state government and state institutions, and emergency laws necessary for the immediate preservation of the public peace, health or safety, shall go into immediate effect. Such emergency laws upon a ye and nay vote must receive the vote of two-thirds of all the members elected to each branch of the general assembly, and the reasons for such necessity shall be set forth in one section of the law, which section shall be passed only upon a ye and nay vote, upon a separate roll call thereon. The laws mentioned in this section shall not be subject to the referendum."

Your query is as to the effective date of the bill, which was presented to the Governor on May 12, 1927, assuming that he allows it to become a law without his signature.

Section 16 of Article II of the Constitution of Ohio provides that every bill passed by the General Assembly shall, before it becomes a law, be presented to the Governor for his approval.

With respect to the failure of the Governor to act, the section uses the following language:

“If a bill shall not be returned by the governor within ten days, Sundays excepted, after being presented to him, it shall become a law in like manner as if he had signed it, unless the general assembly by adjournment prevents its return; in which case, it shall become a law unless, within ten days after such adjournment, it shall be filed by him, with his objections in writing, in the office of the secretary of state.”

The language of this section is so plain that it scarcely requires judicial construction. I call your attention, however, to the case of *Cincinnati Traction Co. vs Utilities Commission*, 113 O. S. 618, where the court, on page 628, states:

“It has been held by this court in *Patterson Foundry & Machine Co. vs Ohio River Power Co.*, 99 Ohio St., 429, 124 N. E., 241, that the passage of an act refers to the date of the signing of the bill by the Governor, or the expiration of ten days from the time the bill was presented to the Governor, if not signed by him. * * * The bill was passed by the Legislature on April 17, 1925. It was presented to the Governor on April 21, 1925. It was neither approved nor disapproved by the Governor, and its passage must therefore date from May 2, 1925.”

To determine the effective date of the law in the present instance, it is only necessary to use the formula applied by the Supreme Court in the case from which I have quoted. The bill having been presented to the Governor on May 12th, that date is excluded from the computation. Excluding further the intervening Sundays, which in this case are May 14th and 21st, the 10th day is May 24th. The Governor may at any time before twelve o'clock midnight of May 24th, 1927, return the bill.

You are therefore advised that if the Governor does not return the bill before midnight of May 24th, 1927, House Bill No. 206 will be a law from May 24th, 1927. In other words, immediately after midnight of May 24th, or at 12:01 o'clock A. M. May 25th, 1927, House Bill No. 206 will become a law, if not acted upon by the Governor.

Respectfully,
EDWARD C. TURNER,
Attorney General.