



*Witherburn on 5-6*  
**THE ATTORNEY GENERAL  
OF TEXAS**

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**AUSTIN, TEXAS 78711**

April 28, 1969

Honorable Joe B. Roberts, Chairman Opinion No. M-378  
Texas Industrial Accident Board  
State Insurance Building  
Austin, Texas 78701

Re: Effective date of Sen  
Bill 64, Acts of the  
Legislature, Regular  
Session 1969.

Dear Mr. Roberts:

Your request for an opinion reads as follows:

"Senate Bill 64, 61st Legislature, Regular Session, 1969 was signed by the Governor of the State of Texas on March 18, 1969 and filed for record in the office of the Secretary of State on March 18, 1969.

"The Board respectfully requests an opinion of the language contained in Section 16 of Senate Bill 64 which states: 'This act (shall) take effect and be in force sixty (60) days from and after its passage. . .'

"The Board and many parties wish to know the specific day, hour, minute and second in the month of May in which Senate Bill 64 becomes effective."

Section 39 of Article III of the Constitution of Texas provides:

"No law passed by the Legislature, 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 a preamble or in the body of the act, the Legislature 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 journals."

Under the above quoted constitutional prohibition, the legislature in prescribing an effective date, prior to th

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expiration of ninety days after adjournment, must pass the act by a vote of two-thirds of all the members of each house, and which vote is to be entered upon the journals. Copus v. Chorn, 136 Tex. 209, 150 S.W.2d 70 (1941); Popham v. Patterson, 121 Tex. 615, 51 S.W.2d 680 (1932); Caples v. Cole, 129 Tex. 370, 102 S.W.2d 173 (1937).

Senate Bill 64 passed the Senate on February 18 by a record vote of thirty yeas and no nays, which vote was recorded in the Senate journal on page 206. Senate Bill 64 passed the House of Representatives by a record vote of one hundred forty-seven yeas and one nay on March 6, which vote was recorded in the House journal at page 472. The above recorded votes constitute two-thirds of all of the members of each house within the meaning of Section 39 of Article III of the Constitution of Texas.

The provisions of said Section 39 having been complied with, Senate Bill 64 will become effective in accordance with the provisions of the emergency clause which reads, in part, as follows:

". . . [T]his Act shall take effect and be in force sixty (60) days from and after its passage. . ."

In view of the foregoing Senate Bill 64 will take effect and be in force sixty days from and after its passage.

In construing similar language contained in Section 39 of Article III of the Constitution of Texas with regard to the phrase "no law . . . shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted", the Courts of this State have established that ninety full days must intervene between the date of adjournment and the effective date of the ninety day bill. Halbert v. San Saba Springs Land and Livestock Association, 89 Tex. 231, 34 S.W. 639 (1896); Copus v. Chorn, *supra*.

By like reasoning, since the emergency clause provides that the act shall take effect "sixty days from and after its passage," sixty full days must intervene between the date of passage and the effective date of Senate Bill 64.

Since Senate Bill 64 passed the Senate on February 18 and the House on March 6, its passage occurred March 6, 1969, and the act shall take effect and be in force sixty days from

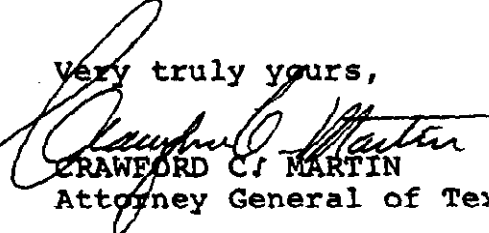
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and after March 6, 1969. Therefore, the effective date of Senate Bill 64 is May 6, 1969, at the beginning of said day, or stated another way, it is effective 12:01 A.M. on May 6, 1969.

S U M M A R Y

The legislature having prescribed that Senate Bill 64, Acts of the 61st Legislature, Regular Session, 1969, shall take effect and be in force sixty days from and after its passage and Senate Bill 64 having received the required two-thirds record vote, and entered upon the journals of each house, sixty full days must intervene between the date of its passage, March 6, 1969, and the effective date of this act. Therefore, the effective date of the act is the beginning of May 6, 1969, or after midnight of May 5, 1969.

Very truly yours,

  
CRAWFORD C. MARTIN  
Attorney General of Texas

Prepared by John Reeves  
Assistant Attorney General

APPROVED:  
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