

March 17, 1950

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ARIZONA ATTORNEY GENERAL

Hon. Frank L. Christensen  
Senate Chambers  
Phoenix, Arizona

Dear Senator:

In response to your request of this date, as to how to compute the time the Governor may hold an act of the Legislature without approval or veto, and whether the bill must be returned in open session, please be advised:

Section 7, Article 5, of the Constitution provides in part as follows:

"If any bill be not returned within five days after it shall have been presented to the Governor (Sunday excepted), such bill shall become a law \* \* \*" etc.

The question you asked has not been passed on by our Supreme Court, however, courts of other states, having identical or similar constitutional provisions, have held the Governor has five full days (excluding Sunday) to act on legislation, and that in computing the time, the first day is excluded, and the last day included in the five-day period.

50 Am. Jur. Sec. 117, states the general rule as follows: (Page 113)

" \* \* \* It is also a general rule that the day of presentation is to be excluded and the last day of the specified period included. For this purpose, a 'day' begins at twelve o'clock midnight and extends through twenty-four hours to the next twelve o'clock midnight. In this connection,

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it has been declared that the 'days' within which the chief executive must act on a legislative bill submitted to him, or within which the bill will become a law without action on his part, are days of twenty-four hours each. \* \* \*

This rule is supported by numerous cases, such as State v. Holm, (Minn.) 215 N.W. 200, 54 ALR 333; State v. Sessions, (Kan.) 115 P. 641, and cases cited in annotation to 82 L. Ed. 467, and 59 C.J. 578.

The case of State v. Holm, supra, also holds:

"There is no substantial reason for a bill being returned to the house while in actual session. It is in existence until the final adjournment, regardless of whether it is in session or not. The presiding officer, secretary (or clerk) and members of either house are its authorized representatives. There is no reason why a return cannot be made to any one of them. It is the official duty of the one to whom the bill is returned to promptly report to the house when in session. \* \* \*

We trust this answers your question.

Very truly yours,

FRED O. WILSON  
Attorney General

EARL ANDERSON  
Assistant Attorney General

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