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Did You Know? - Emergency and Safety Clauses

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DID YOU KNOW?

EMERGENCY AND SAFETY CLAUSES

By ERL H. ELLIS, of the Denver Bar

Rule 1: If a law bears the safety clause but not the emergency clause then the act cannot be referred to the people. But the act does not become effective until ninety days after its passage.

Rule 2: If the act contains the emergency clause and not the safety clause then the act does not take effect until ninety days after the adjournment of the Legislature and the bill may be, during that period, referred to the people (unless it is a general appropriation bill which is not referable, and such act would take effect immediately). Generally, then, the emergency clause without the safety clause is without force or effect.

Rule 3: If an act contains both the emergency and safety clauses it becomes effective immediately (or when made effective by its terms) and may not be referred to the people.

Rule 4: The safety clause is a part of the act itself, and is a conclusive finding by the Legislature that the law is necessary for the immediate preservation of the public peace, health or safety, and the courts cannot consider the question of whether or not there was any logic to such a declaration. Being a part of the act, there is no separate vote on the safety clause and referendum is prevented by a majority vote.

Rule 5: The emergency clause is not a part of the act. It is a separate act requiring a two-thirds vote of all of the elected members of each house. If it is not adopted it is stricken out upon final enrollment of a clerical matter and it is not an amendment to the bill itself.

Chief Colorado Cases: 18 Colo. 291; 54 Colo. 262; 61 Colo. 422; 62 Colo. 4; 66 Colo. 319; 74 Colo. 27; and 94 Colo. 101.

Those in italics are the more important.