

1976 WL 30520 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 11, 1976

*1 Section 13 of the Appropriations Act took effect on July 22, 1976, the day the Legislature overrode the Governor's veto of said section.

Deputy Superintendent of Education

QUESTION PRESENTED

When did Section 13 of the 1976-1977 Appropriations Act, providing for a nine percent surtax on alcoholic liquor, take effect?

STATUTES, CONSTITUTIONAL PROVISIONS, AND AUTHORITIES INVOLVED

South Carolina Constitution, Article 4, Section 21, as amended; Code Section 30-201, 1962, as amended; 82 C.J.S. Statutes Section 58; Section 13 of the 1976-77 Appropriations Act; the Final Paragraph of the 1976-77 Appropriations Act.

DISCUSSION OF THE ISSUE

Section 13 of the Appropriations Act for 1976-1977 was vetoed by the Governor which veto was overridden by the General Assembly on July 22, 1976. Section 13 calls for the imposition of a nine percent surtax on alcoholic liquor. Contained in the last paragraph of the Appropriations Act is the following:

Except as otherwise specifically provided herein, this act shall take effect immediately upon its approval by the Governor.

Article 4, Section 21, of the South Carolina Constitution, as amended, contains the following which explains the effect of a legislative override of a veto:

If after such reconsideration two-thirds of that house shall agree to pass it, it shall be sent, together with the objections, to the other house, by which it shall be reconsidered, and if approved by two-thirds of that house it shall have the same effect as if it had been signed by the Governor . . . (Emphasis added.)

Code Section 30-201, 1962, as amended, provides for a twenty (20) day waiting period before an act takes effect unless some other day is specifically provided in the act. Without doubt, those portions of the Appropriations Act which were not vetoed took effect upon approval of the Governor pursuant to the wording of the act set out above. It is our opinion, therefore, that Section 13 became effective on July 22, 1976, the date the veto was overridden. This position is taken in the light of the language from Article 4, Section 21, of the Constitution which states that legislative override of a veto has the 'same effect' as the bill having been signed by the Governor. See also, 82 C.J.S. Statutes Section 58. To hold otherwise would be to view Section 13 as something separate and distinct from the Appropriations Act. Such a position would contravene other language in Article 4, Section 21, which indicates that the vetoed legislation becomes a 'part of the law notwithstanding the objections of the Governor' rather than a separate and distinct piece of legislation.

CONCLUSION

Section 13 of the Appropriations Act which provides for a nine percent surtax on alcoholic liquors became effective on July 22, 1976.

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Deputy Attorney General

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