

Construction, § 16:4. Vermont's inclusion on that list is distinguished by a parenthetical reference to the qualifying language in Vermont's adjournment clause. *Id.*, n. 1 ("if legislature adjourns within three days after presentment").

The adjournment clauses in other state constitutions use unqualified language that defeats legislation without regard to the sequence of presentment and adjournment. *See, e.g.*, N.H. Const. pt. 2, art. 44 ("unless the legislature, by their adjournment, prevent its return"); Me. Const. art. IV, pt. III, § 2 ("unless the Legislature by their adjournment prevent its return"). The federal constitution uses similar, unqualified language, making the federal precedents inapposite as well. *See* U.S. Const. art. I, § 7 ("unless the Congress by their Adjournment prevent its Return").

You are probably aware that one of your predecessors accepted, numbered and certified another bill in circumstances like those in our case. In 1994, the Legislature passed a bill that was not presented to the Governor until June 15, three days after the final adjournment. *See* 1994, No. 236, An Act Relating to Fish and Wildlife Licensing. On June 21, the fifth day (Sundays excepted) after presentment, the Office of the Governor informed the House that "[the Governor] did not approve and *allowed to become law without his signature* a bill originating in the House of the following title: H. 153. An act relating to fish and wildlife licensing...." *See* Journal of the House dated June 12, 1994.<sup>3</sup> (emphasis in original) On August 5, 1994, the Secretary of State published the bill as Act No. 236 in a volume of laws that he certified as "true copies of the Public Acts and Resolves passed by the General Assembly...."

This 1994 precedent is not binding on you and is not a legal precedent with the stature of a court opinion. It is, however, a public and formal interpretation that two high state officials have given to Chapter II, Section 11. They acted in the scope of their offices and so were bound to "not directly or indirectly, do any act or thing injurious to the Constitution." Vt. Const. ch. II, § 56 (Oath or Affirmation of Allegiance).

In summary, there are several considerations that make it more likely than not that the courts would sustain H. 267 against a claim that it was not properly enacted. These considerations include: the plain meaning of the constitutional provision allowing bills to become law without the Governor's signature, the historical context of that provision, the fact that the Legislature has approved H. 267 and that the Governor has indicated it should be "allowed to become law," the lack of judicial

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<sup>3</sup> This message was recorded along with several others received "after adjournment of the House," explaining why a message dated June 21 appears in a Journal dated June 12. The record shows that the bill in question was passed by the Legislature on May 24, 1994; that the Legislature adjourned on June 12; that the bill was presented to the Governor on June 15; and that the message from the Governor was sent on June 21.