

OFFICE OF THE CITY ATTORNEY

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Legal Opinion 2019-013

TO: Mayor John Engen, City Council, Dale Bickell, Mike Haynes, Ben Weiss, Kevin Slovarp, Troy Monroe, Jeremy Keene, Chad Pancake, Brian Hensel, Donna Gaukler, Tiffany Brander, Mike Brady, Scott Hoffman, Mike Colyer, Chris Odlin, Richard Stepper, Laurie Clark, Gregg Amundsen, Marty Rehbein, Kirsten Hands, Kelly Elam

CC: Department Attorney

FROM: Jim Nugent, City Attorney

DATE May 17, 2019

RE: Senate Bill-249 (2019) a state legislative act generally revising bicycle right-of-way laws does not become effective until October 1, 2019.

FACTS:

The City Council is currently considering revising some city bicycle municipal code provisions to be consistent with Senate Bill 249 (2019) pertaining to generally revising bicycle right-of-way laws. However, City of Missoula officials should be aware that Senate Bill-249 (2019) does not go into effect until October 1, 2019.

ISSUE(S):

When does Senate Bill 249 (2019) generally revising Montana's bicycle right-of-way laws go into effect?

CONCLUSION(S):

Senate Bill 249 (2019) goes into effect October 1, 2019 since it did not include a different effective date in the enacting legislation.

LEGAL DISCUSSION:

Generally, newly enacted state legislation does not go into effect until October 1 of the year it is enacted, unless a different time is prescribed in the enacting legislation. Section 1-2-201 MCA states as follows:

“1-2-201. Statutes -- effective date. (1) (a) Except as provided in subsection (1)(b), (1)(c), or (1)(d), every statute adopted after January 1, 1981, takes effect on the first day of October following its passage and approval unless a different time is prescribed in the enacting legislation.

(b) Subject to subsection (1)(d), every statute providing for appropriation by the legislature for public funds for a public purpose takes effect on the first day of July following its passage and approval unless a different time is prescribed in the enacting legislation.

(c) Subject to subsection (1)(d), every statute providing for the taxation of or the imposition of a fee on motor vehicles takes effect on the first day of January following its passage and approval unless a different time is prescribed in the enacting legislation.

(d) Every statute enacted during a special session of the legislature takes effect upon passage and approval unless a different time is prescribed in the enacting legislation.

(2) "Passage", as used in subsection (1), means the enactment into law of a bill, which has passed the legislature, either with or without the approval of the governor, as provided in the constitution.”

Pursuant to section 1-2-201 MCA, since Senate Bill -249(2019) generally revising bicycle right-of-way laws did not include any language prescribing a different effective date, Senate Bill-249 (2019) does not go into effect until October 1, 2019.

CONCLUSION(S):

Senate Bill 249 (2019) goes into effect October 1, 2019 since it did not include a different effective date in the enacting legislation.

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/s/ Jim Nugent

Jim Nugent, City Attorney

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